

Standards of Judicial Administration

Title 1. Standards for All Courts [Reserved]

Title 2. Standards for Proceedings in the Trial Courts

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Standard 2.1. Case management and delay reduction—statement of general principles

(a) Elimination of all unnecessary delays

Trial courts should be guided by the general principle that from the commencement of litigation to its resolution, whether by trial or settlement, any elapsed time other than reasonably required for pleadings, discovery, preparation, and court events is unacceptable and should be eliminated.

(Subd (a) amended and lettered effective January 1, 2004; adopted as part of unlettered subdivision effective July 1, 1987.)

(b) Court responsible for the pace of litigation

To enable the just and efficient resolution of cases, the court, not the lawyers or litigants, should control the pace of litigation. A strong judicial commitment is essential to reducing delay and, once achieved, maintaining a current docket.

(Subd (b) amended and lettered effective January 1, 2004; adopted as part of unlettered subdivision effective July 1, 1987.)

(c) Presiding judge's role

The presiding judge of each court should take an active role in advancing the goals of delay reduction and in formulating and implementing local rules and procedures to accomplish the following:

- (1) The expeditious and timely resolution of cases, after full and careful consideration consistent with the ends of justice;
- (2) The identification and elimination of local rules, forms, practices, and procedures that are obstacles to delay reduction, are inconsistent with statewide case management rules, or prevent the court from effectively managing its cases;
- (3) The formulation and implementation of a system of tracking cases from filing to disposition; and
- (4) The training of judges and nonjudicial administrative personnel in delay reduction rules and procedures adopted in the local jurisdiction.

(Subd (c) amended and lettered effective January 1, 2004; adopted as part of unlettered subdivision effective July 1, 1987.)

Standard 2.1 amended and renumbered effective January 1, 2007; adopted as sec. 2 effective July 1, 1987; previously amended effective January 1, 1994, and January 1, 2004.

Standard 2.2. Trial court case disposition time goals

(a) Trial Court Delay Reduction Act

The recommended goals for case disposition time in the trial courts in this standard are adopted under Government Code sections 68603 and 68620.

(Subd (a) amended effective January 1, 2007; adopted effective July 1, 1987; relettered effective January 1, 1989; previously amended effective January 1, 2004.)

(b) Statement of purpose

The recommended time goals are intended to guide the trial courts in applying the policies and principles of standard 2.1. They are administrative, justice-oriented guidelines to be used in the management of the courts. They are intended to improve the administration of justice by encouraging prompt disposition of all matters coming before the courts. The goals apply to all cases filed and are not meant to create deadlines for individual cases.

Through its case management practices, a court may achieve or exceed the goals stated in this standard for the overall disposition of cases. The goals should be applied in a fair, practical, and flexible manner. They are not to be used as the basis for sanctions against any court or judge.

(Subd (b) amended effective January 1, 2007; adopted effective July 1, 1987, as (1); relettered effective January 1, 1989; previously amended effective January 1, 2004.)

(c) Definition

The definition of “general civil case” in rule 1.6 applies to this section. It includes both unlimited and limited civil cases.

(Subd (c) amended effective January 1, 2007; adopted effective January 1, 2004.)

(d) Civil cases—processing time goals

The goal of each trial court should be to process general civil cases so that all cases are disposed of within two years of filing.

(Subd (d) amended and relettered effective January 1, 2004; adopted effective July 1, 1987, as (2); previously amended effective July 1, 1988; amended and relettered as subd (c) effective January 1, 1989.)

(e) Civil cases—rate of disposition

Each trial court should dispose of at least as many civil cases as are filed each year and, if necessary to meet the case-processing goal in (d), dispose of more cases than are filed. As the court disposes of inactive cases, it should identify active cases that may require judicial attention.

(Subd (e) amended effective January 1, 2007; adopted effective July 1, 1987, as (3); previously amended effective July 1, 1988; previously amended and relettered as subd (d) effective January 1, 1989, and as subd (e) effective January 1, 2004.)

(f) General civil cases—case disposition time goals

The goal of each trial court should be to manage general civil cases, except those exempt under (g), so that they meet the following case disposition time goals:

(1) *Unlimited civil cases:*

The goal of each trial court should be to manage unlimited civil cases from filing so that:

- (A) 75 percent are disposed of within 12 months;
- (B) 85 percent are disposed of within 18 months; and
- (C) 100 percent are disposed of within 24 months.

(2) *Limited civil cases:*

The goal of each trial court should be to manage limited civil cases from filing so that:

- (A) 90 percent are disposed of within 12 months;
- (B) 98 percent are disposed of within 18 months; and
- (C) 100 percent are disposed of within 24 months.

(3) *Individualized case management*

The goals in (1) and (2) are guidelines for the court's disposition of all unlimited and limited civil cases filed in that court. In managing individual civil cases, the court must consider each case on its merits. To enable the fair and efficient resolution of civil cases, each case should be set for trial as soon as appropriate for that individual case consistent with rule 3.729.

(Subd (f) amended effective January 1, 2007; adopted as subd (g) effective July 1, 1987; relettered as subd (h) effective January 1, 1989; amended effective July 1, 1991; previously amended and relettered as subd (f) effective January 1, 2004.)

(g) Exceptional civil cases

A general civil case that meets the criteria in rules 3.715 and 3.400 and that involves exceptional circumstances or will require continuing review is exempt from the time goals in (d) and (f). Every exceptional case should be monitored to ensure its timely disposition consistent with the exceptional circumstances, with the goal of disposing of the case within three years.

(Subd (g) amended effective January 1, 2007; adopted effective January 1, 2004.)

(h) Small claims cases

The goals for small claims cases are:

- (1) 90 percent disposed of within 75 days after filing; and
- (2) 100 percent disposed of within 95 days after filing.

(Subd (h) adopted effective January 1, 2004.)

(i) Unlawful detainer cases

The goals for unlawful detainer cases are:

- (1) 90 percent disposed of within 30 days after filing; and
- (2) 100 percent disposed of within 45 days after filing.

(Subd (i) adopted effective January 1, 2004.)

(j) Felony cases—processing time goals

Except for capital cases, all felony cases disposed of should have a total elapsed processing time of no more than one year from the defendant's first arraignment to disposition.

(Subd (j) amended effective January 1, 2007; adopted effective January 1, 2004.)

(k) Misdemeanor cases

The goals for misdemeanor cases are:

- (1) 90 percent disposed of within 30 days after the defendant's first arraignment on the complaint;
- (2) 98 percent disposed of within 90 days after the defendant's first arraignment on the complaint; and
- (3) 100 percent disposed of within 120 days after the defendant's first arraignment on the complaint.

(Subd (k) adopted effective January 1, 2004.)

(l) Felony preliminary examinations

The goal for felony cases at the time of the preliminary examination (excluding murder cases in which the prosecution seeks the death penalty) should be disposition by dismissal, by interim disposition by certified plea of guilty, or by finding of probable cause, so that:

- (1) 90 percent of cases are disposed of within 30 days after the defendant's first arraignment on the complaint;
- (2) 98 percent of cases are disposed of within 45 days after the defendant's first arraignment on the complaint; and
- (3) 100 percent of cases are disposed of within 90 days after the defendant's first arraignment on the complaint.

(Subd (l) adopted effective January 1, 2004.)

(m) Exceptional criminal cases

An exceptional criminal case is not exempt from the time goal in (j), but case progress should be separately reported under the Judicial Branch Statistical Information System (JBSIS) regulations.

(Subd (m) amended effective January 1, 2007; adopted effective January 1, 2004.)

(n) Cases removed from court's control excluded from computation of time

If a case is removed from the court's control, the period of time until the case is restored to court control should be excluded from the case disposition time goals. The matters that remove a case from the court's control for the purposes of this section include:

- (1) Civil cases:
 - (A) The filing of a notice of conditional settlement under rule 3.1385;
 - (B) An automatic stay resulting from the filing of an action in a federal bankruptcy court;
 - (C) The removal of the case to federal court;
 - (D) An order of a federal court or higher state court staying the case;

- (E) An order staying the case based on proceedings in a court of equal standing in another jurisdiction;
 - (F) The pendency of contractual arbitration under Code of Civil Procedure section 1281.4;
 - (G) The pendency of attorney fee arbitration under Business and Professions Code section 6201;
 - (H) A stay by the reporting court for active military duty or incarceration; and
 - (I) For 180 days, the exemption for uninsured motorist cases under rule 3.712(b).
- (2) Felony or misdemeanor cases:
- (A) Issuance of warrant;
 - (B) Imposition of a civil assessment under Penal Code section 1214.1;
 - (C) Pendency of completion of diversion under Penal Code section 1000 et seq.;
 - (D) Evaluation of mental competence under Penal Code section 1368;
 - (E) Evaluation as a narcotics addict under Welfare and Institutions Code sections 3050 and 3051;
 - (F) 90-day diagnostic and treatment program under Penal Code section 1203.3;
 - (G) 90-day evaluation period for a juvenile under Welfare and Institutions Code section 707.2;
 - (H) Stay by a higher court or by a federal court for proceedings in another jurisdiction;
 - (I) Stay by the reporting court for active military duty or incarceration; and

- (J) Time granted by the court to secure counsel if the defendant is not represented at the first appearance.

(Subd (n) amended effective January 1, 2007; adopted effective January 1, 2004.)

(o) Problems

A court that finds its ability to comply with these goals impeded by a rule of court or statute should notify the Judicial Council.

(Subd (o) amended effective January 1, 2007; adopted effective January 1, 2004.)

Standard 2.2 amended and renumbered effective January 1, 2007; adopted as sec. 2.1 effective July 1, 1987; previously amended effective January 1, 1988, July 1, 1988, January 1, 1989, January 1, 1990, July 1, 1991, and January 1, 2004.

Standard 2.10. Procedures for determining the need for an interpreter and a preappearance interview

(a) When an interpreter is needed

An interpreter is needed if, after an examination of a party or witness, the court concludes that:

- (1) The party cannot understand and speak English well enough to participate fully in the proceedings and to assist counsel; or
- (2) The witness cannot speak English so as to be understood directly by counsel, court, and jury.

(Subd (a) amended effective January 1, 2007.)

(b) When an examination is required

The court should examine a party or witness on the record to determine whether an interpreter is needed if:

- (1) A party or counsel requests such an examination; or
- (2) It appears to the court that the party or witness may not understand and speak English well enough to participate fully in the proceedings.

(Subd (b) amended effective January 1, 2007.)

(c) Examination of party or witness

To determine if an interpreter is needed, the court should normally include questions on the following:

- (1) Identification (for example: name, address, birthdate, age, place of birth);
- (2) Active vocabulary in vernacular English (for example: “How did you come to the court today?” “What kind of work do you do?” “Where did you go to school?” “What was the highest grade you completed?” “Describe what you see in the courtroom.” “What have you eaten today?”). Questions should be phrased to avoid “yes” or “no” replies;
- (3) The court proceedings (for example: the nature of the charge or the type of case before the court, the purpose of the proceedings and function of the court, the rights of a party or criminal defendant, and the responsibilities of a witness).

(Subd (c) amended effective January 1, 2007.)

(d) Record of examination

After the examination, the court should state its conclusion on the record. The file in the case should be clearly marked and data entered electronically when appropriate by court personnel to ensure that an interpreter will be present when needed in any subsequent proceeding.

(Subd (d) amended effective January 1, 2007.)

(e) Good cause for preappearance interview

For good cause, the court should authorize a preappearance interview between the interpreter and the party or witness. Good cause exists if the interpreter needs clarification on any interpreting issues, including: colloquialisms, culturalisms, dialects, idioms, linguistic capabilities and traits, regionalisms, register, slang, speech patterns, or technical terms.

(Subd (e) amended effective January 1, 2007.)

Standard 2.10 amended and renumbered effective January 1, 2007; repealed and adopted as sec. 18 effective January 1, 1999.

Standard 2.11. Interpreted proceedings—instructing participants on procedure

(a) Instructions to interpreters

The court or the court's designee should give the following instructions to interpreters, either orally or in writing:

- (1) Do not discuss the pending proceedings with a party or witness.
- (2) Do not disclose communications between counsel and client.
- (3) Do not give legal advice to a party or witness. Refer legal questions to the attorney or to the court.
- (4) Inform the court if you are unable to interpret a word, expression, special terminology, or dialect, or have doubts about your linguistic expertise or ability to perform adequately in a particular case.
- (5) Interpret all words, including slang, vulgarisms, and epithets, to convey the intended meaning.
- (6) Use the first person when interpreting statements made in the first person. (For example, a statement or question should not be introduced with the words, "He says. . . .")
- (7) Direct all inquiries or problems to the court and not to the witness or counsel. If necessary, you may request permission to approach the bench with counsel to discuss a problem.
- (8) Position yourself near the witness or party without blocking the view of the judge, jury, or counsel.
- (9) Inform the court if you become fatigued during the proceedings.
- (10) When interpreting for a party at the counsel table, speak loudly enough to be heard by the party or counsel but not so loudly as to interfere with the proceedings.
- (11) Interpret everything, including objections.
- (12) If the court finds good cause under rule 2.893(e), hold a preappearance interview with the party or witness to become familiar with speech

patterns and linguistic traits and to determine what technical or special terms may be used. Counsel may be present at the preappearance interview.

- (13) During the preappearance interview with a non-English-speaking witness, give the witness the following instructions on the procedure to be followed when the witness is testifying:
 - (A) The witness must speak in a loud, clear voice so that the entire court and not just the interpreter can hear.
 - (B) The witness must direct all responses to the person asking the question, not to the interpreter.
 - (C) The witness must direct all questions to counsel or to the court and not to the interpreter. The witness may not seek advice from or engage in any discussion with the interpreter.
- (14) During the preappearance interview with a non-English-speaking party, give the following instructions on the procedure to be used when the non-English-speaking party is not testifying:
 - (A) The interpreter will interpret all statements made in open court.
 - (B) The party must direct any questions to counsel. The interpreter will interpret all questions to counsel and the responses. The party may not seek advice from or engage in discussion with the interpreter.

(Subd (a) amended effective January 1, 2007.)

(b) Instructions to counsel

The court or the court's designee should give the following instructions to counsel, either orally or in writing:

- (1) When examining a non-English-speaking witness, direct all questions to the witness and not to the interpreter. (For example, do not say to the interpreter, "Ask him if. . .")
- (2) If there is a disagreement with the interpretation, direct any objection to the court and not to the interpreter. Ask permission to approach the bench to discuss the problem.

- (3) If you have a question regarding the qualifications of the interpreter, you may request permission to conduct a supplemental examination on the interpreter's qualifications.

Standard 2.11 amended and renumbered effective January 1, 2007; repealed and adopted as sec. 18.1 effective January 1, 1999.

Standard 2.20. Trial management standards

(a) General principles

The trial judge has the responsibility to manage the trial proceedings. The judge should take appropriate action to ensure that all parties are prepared to proceed, the trial commences as scheduled, all parties have a fair opportunity to present evidence, and the trial proceeds to conclusion without unnecessary interruption. When the trial involves a jury, the trial judge should manage proceedings with particular emphasis on the needs of the jury.

(Subd (a) amended effective January 1, 2007.)

(b) Techniques of trial management

The trial judge should employ the following trial management techniques:

- (1) Participate with trial counsel in a trial management conference before trial.
- (2) After consultation with counsel, set reasonable time limits.
- (3) Arrange the court's docket to start trial as scheduled and inform parties of the number of hours set each day for the trial.
- (4) Ensure that once trial has begun, momentum is maintained.
- (5) Be receptive to using technology in managing the trial and the presentation of evidence.
- (6) Attempt to maintain continuity in days of trial and hours of trial.
- (7) Schedule arguments on legal issues at the beginning or end of the day so as not to interrupt the presentation of evidence.

- (8) Permit sidebar conferences only when necessary, and keep them as short as possible.
- (9) In longer trials, consider scheduling trial days to permit jurors time for personal business.

(Subd (b) amended effective January 1, 2007.)

Standard 2.20 amended and renumbered effective January 1, 2007; adopted as sec 8.9 effective July 1, 1997.

Standard 2.25. Uninterrupted jury selection

When practical, the trial judge, with the cooperation of the other judges of the court, should schedule court business to allow for jury selection uninterrupted by other court business.

Standard 2.25 amended and renumbered effective January 1, 2007; adopted as sec. 8.6 effective July 1, 1990.

Standard 2.30. Judicial comment on verdict or mistrial

At the conclusion of a trial, or on declaring a mistrial for failure of a jury to reach a verdict, it is appropriate for the trial judge to thank jurors for their public service, but the judge's comments should not include praise or criticism of the verdict or the failure to reach a verdict.

Standard 2.30 amended and renumbered effective January 1, 2007; adopted as sec. 14 effective January 1, 1976.

Title 3. Standards for Civil Cases

Standard 3.1. Appearance by telephone

Standard 3.10. Complex civil litigation

Standard 3.25. Examination of prospective jurors in civil cases

Standard 3.1. Appearance by telephone

(a) Recommended criteria for telephone equipment

Each court should have adequate telephone equipment for use in hearings at which counsel may appear by telephone. This equipment should:

- (1) Permit each person participating in the hearing, whether in person or by telephone, to hear all other persons;
- (2) Handle at least three incoming calls at one time and place those calls into a conference call in a simple and quick manner;
- (3) Have a silent (visible) ringer;
- (4) Be simple to learn and use;
- (5) Be reasonable in cost; and
- (6) Have full-duplex, simultaneous bidirectional speaker capability.

(Subd (a) amended effective January 1, 2007.)

(b) Optional features for telephone equipment

It is desirable if the telephone equipment can:

- (1) Dial previously stored telephone numbers;
- (2) Record conversations;
- (3) Be moved easily from location to location; and
- (4) Automatically queue incoming calls.

(Subd (b) amended effective January 1, 2007.)

(c) Types of matters desired to be heard by telephone

Each court should specify, by local court rule or uniform local written policy, the types of motions and hearings it considers particularly suitable for hearing by telephone appearance. The rule or policy should encourage appearance by telephone in nonevidentiary civil matters if appearance of counsel in person would not materially assist in a determination of the proceeding or in settlement of the case.

(Subd (c) amended effective July 1, 1992.)

(d) Award of attorney's fees

A court should consider, in awarding attorney's fees under any applicable provision of law, whether an attorney is claiming fees for appearing in person in a proceeding in which that attorney could have appeared by telephone.

(Subd (d) amended effective January 1, 2007.)

(e) Local procedures for telephone appearance

Each court should adopt a local rule or uniform local written policy specifying the following:

- (1) Whether the court or the attorney initiates the telephone call for a telephone appearance;
- (2) Whether the court sets a specified time for a telephone appearance or a time range; and
- (3) How the parties are notified, in advance of the hearing, of the time or time range of the telephone appearance. In those courts using a tentative ruling recording system, that notice should be part of the tentative ruling recording.

(Subd (e) amended effective January 1, 2007.)

Standard 3.1 amended effective January 1, 2007; repealed and adopted as sec. 21 effective January 1, 1989; previously amended effective July 1, 1992.

Standard 3.10. Complex civil litigation

(a) Judicial management

In complex litigation, judicial management should begin early and be applied continuously and actively, based on knowledge of the circumstances of each case.

(b) All-purpose assignment

Complex litigation should be assigned to one judge for all purposes. If such an assignment is not possible, a single judge should be assigned to hear law and motion matters and discovery matters.

(Subd (b) amended effective January 1, 2007; adopted as subd (d) effective July 1, 1982; previously relettered effective January 1, 2000.)

(c) Selection of judges for complex litigation assignments

In selecting judges for complex litigation assignments, the presiding judge should consider the needs of the court and the judge's ability, interest, training, experience (including experience with complex civil cases), and willingness to participate in educational programs related to the management of complex cases. Commissioners should not be employed in any phase of complex litigation, except under the judge's direct supervision to assist in the management of the case.

(Subd (c) amended and relettered effective January 1, 2000; adopted as subd (e) effective July 1, 1982.)

(d) Establishing time limits

Time limits should be regularly used to expedite major phases of complex litigation. Time limits should be established early, tailored to the circumstances of each case, firmly and fairly maintained, and accompanied by other methods of sound judicial management.

(Subd (d) relettered effective January 1, 2000; adopted as subd (f) effective July 1, 1982.)

(e) Preparation for trial

Litigants in complex litigation cases should be required to minimize evidentiary disputes and to organize efficiently their exhibits and other evidence before trial.

(Subd (e) amended and relettered effective January 1, 2007; adopted as subd (i) effective July 1, 1982; previously relettered as subd (g) effective January 1, 2000.)

(f) Dilatory tactics

Judges involved in complex litigation should be sensitive to dilatory or abusive litigation tactics and should be prepared to invoke disciplinary procedures for violations.

(Subd (f) relettered effective January 1, 2007; adopted as subd (j) effective July 1, 1982; previously relettered as subd (h) effective January 1, 2000.)

(g) Educational programs

Judges should be encouraged to attend educational programs on the management of complex litigation.

(Subd (g) relettered effective January 1, 2007; adopted as subd (k) effective July 1, 1982; previously amended and relettered as subd (i) effective January 1, 2000.)

(h) Staff assignment

Judges assigned to handle complex cases should be given research attorney and administrative staff assistance when possible.

(Subd (h) amended and relettered effective January 1, 2007; adopted as subd (j) effective January 1, 2000.)

Standard 3.10 amended and renumbered effective January 1, 2007; adopted as sec. 19 effective July 1, 1982; previously amended effective January 1, 1995, and January 1, 2000.

Standard 3.25. Examination of prospective jurors in civil cases

(a) In general

(1) *Methods and scope of examination*

The examination of prospective jurors in a civil case may be oral, by written questionnaire, or by both methods, and should include all questions necessary to ensure the selection of a fair and impartial jury. The *Juror Questionnaire for Civil Cases* (form MC-001) may be used. During any supplemental examination conducted by counsel for the parties, the trial judge should permit liberal and probing examination calculated to discover possible bias or prejudice with regard to the circumstances of the particular case.

(2) *Examination by counsel*

When counsel requests to be allowed to conduct a supplemental voir dire examination, the trial judge should permit counsel to conduct such examination without requiring prior submission of the questions to the judge unless a particular counsel has demonstrated unwillingness to avoid the type of examination proscribed in (f). In exercising his or her sound discretion as to the form and subject matter of voir dire questions, the trial judge should consider, among other criteria: (1) any unique or complex elements, legal or factual, in the case, and (2) the

individual responses or conduct of jurors that may evince attitudes inconsistent with suitability to serve as a fair and impartial juror in the particular case. Questions regarding personal relationships of jurors should be relevant to the subject matter of the case.

(Subd (a) amended effective January 1, 2007; previously amended effective January 1, 1974, July 1, 1993, and January 1, 2004.)

(b) Pre–voir dire conference

Before the examination the trial judge should, outside the prospective jurors' hearing and with a court reporter present, confer with counsel, at which time specific questions or areas of inquiry may be proposed that the judge in his or her discretion may inquire of the jurors. Thereafter, the judge should advise counsel of the questions or areas to be inquired into during the examination and voir dire procedure. The judge should also obtain from counsel the names of the witnesses whom counsel then plan to call at trial and a brief outline of the nature of the case, including any alleged injuries or damages and, in an eminent domain action, the respective contentions of the parties concerning the value of the property taken and any alleged severance damages and special benefits.

(Subd (b) amended effective January 1, 2007; previously amended effective January 1, 1974.)

(c) Examination of jurors

Except as otherwise provided in (d), the trial judge's examination of prospective jurors should include the following areas of inquiry and any other matters affecting their qualifications to serve as jurors in the case:

(1) *To the entire jury panel after it has been sworn and seated:*

I am now going to question the prospective jurors who are seated in the jury box concerning their qualifications to serve as jurors in this case. All members of this jury panel, however, should pay close attention to my questions, making note of the answers you would give if these questions were put to you personally. If and when any other member of this panel is called to the jury box, the member will be asked to give his or her answers to these questions.

(2) In the trial of this case the parties are entitled to have a fair, unbiased, and unprejudiced jury. If there is any reason why any of you might be

biased or prejudiced in any way, you must disclose such reason when you are asked to do so. It is your duty to make this disclosure.

(3) *In lengthy trials:*

This trial will likely take _____ days to complete, but it may take longer. Will any of you find it difficult or impossible to participate for this period of time?

- (4) The nature of this case is as follows: *(Describe briefly, including any alleged injuries or damages and, in an eminent domain action, the name of the condemning agency, a description of the property being acquired, and the particular public project or purpose of the condemnation.)*
- (5) The parties to this case and their respective attorneys are: *(Specify.)* Have you heard of or been acquainted with any of these parties or their attorneys?
- (6) During the trial of this case, the following witnesses may be called to testify on behalf of the parties. These witnesses are: *(Do not identify the party on whose behalf the witnesses might be called.)* Have any of you heard of or been otherwise acquainted with any of the witnesses just named? The parties are not required and might not wish to call all of these witnesses, and they may later find it necessary to call other witnesses.
- (7) Have any of you heard of, or have you any knowledge of, the facts or events in this case? Are any of you familiar with the places or property mentioned in this case?
- (8) Do any of you believe that a case of this nature should not be brought into court for determination by a jury?
- (9) Do any of you have any belief or feeling toward any of the parties, attorneys, or witnesses that might be regarded as a bias or prejudice for or against any of them? Do you have any interest, financial or otherwise, in the outcome of this case?
- (10) Have any of you served as a juror or witness involving any of these parties, attorneys, or witnesses?

- (11) Have any of you served as a juror in any other case? (If so, was it a civil or criminal case?) You must understand that there is a basic difference between a civil case and a criminal case. In a criminal case a defendant must be found guilty beyond a reasonable doubt; in a civil case such as this, you need only find that the evidence you accept as the basis of your decision is more convincing, and thus has the greater probability of truth, than the contrary evidence.

In the following questions I will be using the terms “family,” “close friend,” and “anyone with whom you have a significant personal relationship.” The term “anyone with whom you have a significant personal relationship” means a domestic partner, life partner, former spouse, or anyone with whom you have an influential or intimate relationship that you would characterize as important.

- (12) *If a corporation or “company” is a party:*
- (A) Have you or, to your knowledge, has any member of your family, a close friend, or anyone with whom you have a significant personal relationship ever had any connection with, or any dealings with, the _____ corporation (or company)?
 - (B) Are any of you or them related to any officer, director, or employee of this corporation (or company) to your knowledge?
 - (C) Do you or they own any stock or other interest in this corporation (or company) to your knowledge?
 - (D) Have you or they ever done business as a corporation (or company)?
 - (E) The fact that a corporation (or company) is a party in this case must not affect your deliberations or your verdict. You may not discriminate between corporations (or companies) and natural individuals. Both are persons in the eyes of the law and both are entitled to have a fair and impartial trial based on the same legal standards. Do any of you have any belief or feeling for or against corporations (or companies) that might prevent you from being a completely fair and impartial juror in this case?
- (13) Have you or, to your knowledge, has any member of your family, a close friend, or anyone with whom you have a significant personal relationship ever sued anyone, or presented a claim against anyone in

connection with a matter similar to this case? (If so, did the matter terminate satisfactorily so far as you were concerned?)

- (14) Has anyone ever sued you, or presented a claim against you or, to your knowledge, against any member of your family, a close friend, or anyone with whom you have a significant personal relationship, in connection with a matter similar to this case? (If so, did the matter terminate satisfactorily so far as you were concerned?)
- (15) Are you or, to your knowledge, is any member of your family, a close friend, or anyone with whom you have a significant personal relationship presently involved in a lawsuit of any kind?
- (16) *When appropriate:*

It may appear that one or more of the parties, witnesses, or attorneys come from a particular national, racial, or religious group (or may have a lifestyle different than your own). Would this in any way affect your judgment or the weight and credibility you would give to their testimony or to their contentions?

- (17) Have you or, to your knowledge, has any member of your family, a close friend, or anyone with whom you have a significant personal relationship had any special training in: *(Describe briefly the fields of expertise involved in the case, such as law, medicine, nursing, or any other branch of the healing arts.)*
- (18) *In personal injury or wrongful death cases:*
 - (A) You may be called on in this case to award damages for personal injury, pain, and suffering. Do any of you have any religious or other belief that pain and suffering are not real or any belief that would prevent you from awarding damages for pain and suffering if liability for them is established?
 - (B) Are there any of you who would not employ a medical doctor?
 - (C) Have you or, to your knowledge, has any member of your family, a close friend, or anyone with whom you have a significant personal relationship ever engaged in investigating or otherwise acting on claims for damages?

- (D) Have you or they, to your knowledge, ever been in an accident with the result that a claim for personal injuries or for substantial property damage was made by someone involved in that accident, whether or not a lawsuit was filed?
 - (E) Have you or they, to your knowledge, ever been involved in an accident in which someone died or received serious personal injuries, whether or not a lawsuit was filed?
 - (F) Are there any of you who do not drive an automobile? (If so, have you ever driven an automobile, and if you have, give your reason for not presently driving.) Does your spouse or anyone with whom you have a significant personal relationship drive an automobile? (If that person does not drive but did so in the past, why did that person stop driving?)
 - (G) Plaintiff (or cross-complainant) _____ is claiming injuries. (*Describe briefly the general nature of the alleged injuries.*) Do you or, to your knowledge, does any member of your family, a close friend, or anyone with whom you have a significant personal relationship suffer from similar injuries? Have you or they, to your knowledge, suffered from similar injuries in the past? (If so, would that fact affect your point of view in this case to the extent that you might not be able to render a completely fair and impartial verdict?)
- (19) It is important that I have your assurance that you will, without reservation, follow my instructions and rulings on the law and will apply that law to this case. To put it somewhat differently, whether you approve or disapprove of the court's rulings or instructions, it is your solemn duty to accept as correct these statements of the law. You may not substitute your own idea of what you think the law ought to be. Will all of you follow the law as given to you by me in this case?
- (20) Each of you should now state your:
- (A) Name;
 - (B) Children's ages and the number of children, if any;
 - (C) Occupation;
 - (D) Occupational history; and

(E) Present employer;

And for your spouse or anyone with whom you have a significant personal relationship, their:

(F) Names;

(G) Occupations;

(H) Occupational histories; and

(I) Present employers.

Please begin with juror number one.

- (21) Do you know of any other reason, or has anything occurred during this question period, that might make you doubtful you would be a completely fair and impartial juror in this case? If there is, it is your duty to disclose the reason at this time.

(Subd (c) amended effective January 1, 2007; adopted effective January 1, 1972; previously amended effective January 1, 1974, and January 1, 2004.)

(d) Examination of jurors in eminent domain cases

In eminent domain cases, the trial judge's examination of prospective jurors should include, in the areas of inquiry in (c)(1) through (c)(12), the following matters, and any other matters affecting their qualifications to serve as jurors in the case:

- (1) Have you or, to your knowledge, has any member of your family, a close friend, or anyone with whom you have a significant personal relationship ever had any connection with, or dealings with, the plaintiff agency? Are you or any of them related to any officer or employee of the plaintiff agency?
- (2) Have you or, to your knowledge, has any member of your family, a close friend, or anyone with whom you have a significant personal relationship ever been involved in an eminent domain proceeding such as this or are you or they likely to become involved in such a proceeding in the future?

- (3) To your knowledge, do you have relatives, close friends, or anyone with whom you have a significant personal relationship who has been or will be affected by the proposed project or a similar public project? (If so, who and how affected?)
- (4) Have you or, to your knowledge, has any member of your family, a close friend, or anyone with whom you have a significant personal relationship ever sold property to a public agency having the power of eminent domain?
- (5) Are you or, to your knowledge, is any member of your family, a close friend, or anyone with whom you have a significant personal relationship presently involved in a lawsuit of any kind? (If so, does the lawsuit involve a public agency?)
- (6) Have you or, to your knowledge, has any member of your family, a close friend, or anyone with whom you have a significant personal relationship ever been involved in a lawsuit involving a public agency?
- (7) *When appropriate:*

It may appear that one or more of the parties, witnesses, or attorneys come from a particular national, racial, or religious group (or may have a lifestyle different from your own). Would this in any way affect your judgment or the weight and credibility you would give to their testimony or contentions?

- (8) Have you or, to your knowledge, has any member of your family, a close friend, or anyone with whom you have a significant personal relationship had any special training in: *(Describe briefly the fields of expertise involved in the case, such as law, real estate, real estate appraising, engineering, surveying, geology, etc.)*
- (9) Have you, has your spouse, or, to your knowledge, has any member of your family, a close friend, or anyone with whom you have a significant personal relationship ever been engaged in any phase of the real estate business including:
 - (A) Acting as a real estate agent, broker, or salesperson;
 - (B) Acting as a real estate appraiser;
 - (C) Dealing in trust deeds;

- (D) Buying or selling real property as a business;
 - (E) Owning or managing income property; or
 - (F) Engaging in the construction business?
- (10) Have you or, to your knowledge, has any member of your family, a close friend, or anyone with whom you have a significant personal relationship ever studied or engaged in: (State type of business, if any, conducted on subject property.)
- (11) Have you or, to your knowledge, has any member of your family, a close friend, or anyone with whom you have a significant personal relationship ever been engaged in any work involving the acquisition of private property for public purposes? Or involving the zoning or planning of property?
- (12) Under the law of this state, all private property is held subject to the necessary right of eminent domain, which is the right of the state or its authorized agencies to take private property for public use whenever the public interest so requires. The right of eminent domain is exercised through proceedings commonly called a condemnation action. This is a condemnation action.
- (13) The Constitution of this state requires that a property owner be paid just compensation for the taking (or damaging) of his or her property for public use. It will be the duty of the jury ultimately selected in this case to determine the just compensation to be paid.
- (14) *If no claim of severance damages:*
- In order to find the amount of just compensation in this case, the jury will be called on to determine the fair market value of the real property being acquired.
- (15) *If severance damages are claimed:*
- In order to find the amount of just compensation in this case, the jury will be called on to determine the following:
- (A) The fair market value of the real property being acquired.

- (B) Severance damages, if any, to the defendant's remaining real property; that is, the depreciation in market value by reason of the severance of the part taken, or by the construction of the improvements in the manner proposed by the plaintiff, or both.
 - (C) *When applicable:* Special benefits, if any, to the defendant's remaining real property. *(The trial judge on request may advise the jury on the concept of special benefits.)*
- (16) Just compensation is measured in terms of fair market value as of *(date)*, the date of value in this case.
- (17) I will give you more specific instructions on the issues and determinations to be made in this case at the conclusion of all the evidence. However, I will now advise you of the definition of fair market value: *(See CACI 3501.)*
- (18) *Private ownership of property:*
- (A) Do you have any objection to the concept of private ownership of property?
 - (B) Do you have any objection to the right of the owner of private property to develop or use that property in whatever lawful way its owner sees fit?
- (19) Do you have any objection to the plaintiff acquiring private property for a public use as long as just compensation is paid for the property?
- (20) Do you have any objection to the defendant(s) seeking just compensation in these proceedings in the form of the fair market value of the subject property (and the damages that the defendant(s) contend will be caused to the remaining property)?
- (21) Do you have any objection to the particular public project involved in this proceeding, previously referred to as the *(name of project)*?
- (22) Are you or, to your knowledge, is any member of your family, a close friend, or anyone with whom you have a significant personal relationship a member of any organization that is opposed to such public projects?

- (23) Do you have any objection to the concept that just compensation is measured by fair market value as I have defined that term for you earlier?
- (24) Do you have any feeling that, because the plaintiff needs the property for public purposes, it should pay anything other than its fair market value?
- (25) In these cases, the evidence of value is introduced for the most part by what the courts sometimes refer to as expert testimony. This expert testimony frequently is introduced through appraisers or real estate brokers. Do you have any prejudice against real estate brokers or appraisers, or that type of testimony?
- (26) In a condemnation case the property owner produces all of his or her evidence of value first, then the government calls its witnesses. Having this in mind, will you keep your mind open throughout all the case and not determine the matter in your mind until all of the evidence is in?
- (27) It is important that I have your assurance that you will, without reservation, follow my instructions and rulings on the law and will apply that law to this case. To put it somewhat differently, whether you approve or disapprove of the court's rulings or instructions, it is your solemn duty to accept as correct these statements of the law. You may not substitute your own idea of what you think the law ought to be. Will all of you follow the law as given to you by me in this case?
- (28) Each of you should now state your:

- (A) Name;
- (B) Children's ages and number of children, if any;
- (C) Occupation;
- (D) Occupational history; and
- (E) Present employer;

And for your spouse or anyone with whom you have a significant personal relationship, their:

- (F) Names;

- (G) Occupations;
- (H) Occupational histories; and
- (I) Present employers.

Please begin with juror number one.

- (29) Each of you should now state whether you, your spouse, or anyone with whom you have a significant personal relationship owns or has an interest in any real property and, if so, whether its value or use is affected by the public project involved in this case.

We will again start with juror number one.

- (30) Do you know of any other reason, or has anything occurred during this question period, that might make you doubtful you would be a completely fair and impartial juror in this case? If there is, it is your duty to disclose the reason at this time.

(Subd (d) amended effective January 1, 2007; adopted effective January 1, 1974; previously amended effective January 1, 1989, and January 1, 2004.)

(e) Subsequent conference and examination

On completion of the initial examination and on request of counsel for any party that the trial judge put additional questions to the jurors, the judge should, outside the jurors' hearing and with a court reporter present, confer with counsel, at which time additional questions or areas of inquiry may be proposed that the judge may inquire of the jurors.

(Subd (e) amended effective January 1, 2007; previously amended effective January 1, 1974.)

(f) Improper questions

When any counsel examines the prospective jurors, the trial judge should not permit counsel to attempt to precondition the prospective jurors to a particular result or allow counsel to comment on the personal lives and families of the parties or their attorneys. Nor should the trial judge allow counsel to question the jurors concerning the pleadings, the applicable law, the meaning of particular words and phrases, or the comfort of the jurors,

except in unusual circumstances, where, in the trial judge's sound discretion, such questions become necessary to insure the selection of a fair and impartial jury.

(Subd (f) amended effective January 1, 2007; previously amended effective January 1, 1974.)

Standard 3.25 amended and renumbered effective January 1, 2007; adopted as Sec. 8 effective January 1, 1972; previously amended effective January 1, 1974, January 1, 1989, July 1, 1993, and January 1, 2004.

Title 4. Standards for Criminal Cases

Standard 4.10. Guidelines for diversion drug court programs

Standard 4.30. Examination of prospective jurors in criminal cases

Standard 4.40. Traffic infraction procedures

Standard 4.41. Courtesy notice—traffic procedures

Standard 4.42. Traffic infraction trial scheduling

Standard 4.10. Guidelines for diversion drug court programs

(a) Minimum components

The components specified in this standard should be included as minimum requirements in any pre-plea diversion drug court program developed under Penal Code section 1000.5.

(Subd (a) amended effective January 1, 2007.)

(b) Early entry

Eligible participants should be identified early and enter into a supervision and treatment program promptly.

- (1) A declaration of eligibility should be filed by the district attorney no later than the date of the defendant's first appearance in court.
- (2) Participants designated as eligible by the district attorney should be ordered by the assigned drug court judge to report for assessment and treatment supervision within five days of the first court appearance.

(c) Treatment services

Participants should be given access to a continuum of treatment and rehabilitative services.

- (1) The county drug program administrator should specify and certify appropriate drug treatment programs under Penal Code section 1211.
- (2) The certified treatment programs should provide a minimum of two levels of treatment services to match participants to programs according to their needs for treatment, recognizing that some divertees may be at the stage of experimenting with illicit drugs while others may be further along in the addiction's progression.
- (3) Each treatment level should be divided into phases in order to provide periodic reviews of treatment progress. Each phase may vary in length. It should be recognized that a participant is expected to progress in treatment but may relapse. Most participants, however, should be able to successfully complete the treatment program within 12 months.
- (4) Each pre-plea diversion drug court program should have an assessment component to ensure that participants are initially screened and then periodically assessed by treatment personnel to ensure that appropriate treatment services are provided and to monitor the participants' progress through the phases.
- (5) Treatment services should include educational and group outpatient treatment. Individual counseling, however, should be made available in special circumstances if an assessment based on acceptable professional standards indicates that individual counseling is the only appropriate form of treatment. Referrals should be made for educational and vocational counseling if it is determined to be appropriate by the judge.

(Subd (c) amended effective January 1, 2007.)

(d) Monitoring

Abstinence from and use of drugs should be monitored by frequent drug testing.

- (1) Alcohol and other drug (AOD) testing is essential and should be mandatory in each pre-plea diversion drug court program to monitor participant compliance.
- (2) Testing may be administered randomly or at scheduled intervals, but should occur no less frequently than one time per week during the first 90 days of treatment.
- (3) The probation officer and court should be immediately notified when a participant has tested positive, has failed to submit to AOD testing, or has submitted an adulterated sample. In such cases, an interim hearing should be calendared and required as outlined in (e)(4).
- (4) Participants should not be considered to have successfully completed the treatment program unless they have consistently had negative test results for a period of four months.

(Subd (d) amended effective January 1, 2007.)

(e) Judicial supervision

There should be early and frequent judicial supervision of each diversion drug court participant.

- (1) Each participant should appear in court before a specifically assigned diversion drug court judge within 30 days after the first court appearance. At this time the participant should provide proof of registration, proof of completion of assessment, proof of entry into a specific treatment program, and initial drug test results.
- (2) The second drug court appearance should be held no later than 30 days after the first drug court appearance. The third drug court appearance should be held no later than 60 days after the second drug court appearance.
- (3) A final drug court appearance should be required no sooner than 12 months from entry into treatment unless continued treatment is found to be appropriate and necessary.
- (4) Interim drug court appearances should be required within one week of the following: positive drug test results, failure to test, adulterated test, or failure to appear or participate in treatment.

- (5) At each drug court appearance, the judge should receive a report of the participant's progress in treatment and drug test results and should review, monitor, and impose rewards and sanctions based on the participant's progress or lack of progress.

(f) Sanctions and incentives

The drug court responds directly to each participant's compliance or noncompliance with graduated sanctions or incentives.

- (1) A clear regimen of incentives and sanctions should be established and implemented at each court hearing.
- (2) The suggested range of incentives should be as follows:
 - (A) Encouragement;
 - (B) Advancement to next treatment phase;
 - (C) Reduction in diversion program fees (other than state-mandated fees);
 - (D) Completion of treatment and required court appearances and shortening of the term of diversion; and
 - (E) Other incentives the court may deem necessary or appropriate.
- (3) The suggested range of sanctions should be as follows:
 - (A) Demotion to earlier treatment phase;
 - (B) Increased frequency of testing, supervision, or treatment requirements;
 - (C) Graduated length of incarceration for violating diversion order to abstain from use of illegal drugs and for nonparticipation in treatment; and
 - (D) Reinstatement of criminal proceedings.
- (4) A participant should be terminated from the pre-plea diversion drug court, and criminal proceedings reinstated, if the drug court judge, after

a hearing, makes a final and specific finding and determination at any time during the period of diversion that the participant has:

- (A) Not performed satisfactorily in treatment;
- (B) Failed to benefit from education, treatment, or rehabilitation;
- (C) Been convicted of a misdemeanor that reflects the participant's propensity for violence; or
- (D) Engaged in criminal conduct rendering him or her unsuitable for continued treatment.

(Subd (f) amended effective January 1, 2007.)

(g) National standards

In addition to meeting the minimum guidelines provided in this standard, courts are encouraged to look to the nationally accepted guidelines, *Defining Drug Courts: The Key Components*, developed by the National Association of Drug Court Professionals in cooperation with the Department of Justice, for further and detailed guidance in developing an effective diversion drug court program.

(Subd (g) amended effective January 1, 2007.)

Standard 4.10 amended and renumbered effective January 1, 2007; adopted as sec. 36 effective January 1, 1998.

Standard 4.30. Examination of prospective jurors in criminal cases

(a) In general

- (1) This standard applies in all criminal cases.
- (2) The examination of prospective jurors in a criminal case should include all questions necessary to insure the selection of a fair and impartial jury.
- (3) The court may consider conducting sequestered voir dire on issues that are sensitive to prospective jurors, on questions concerning media reports of the case, and on any other issue that the court deems advisable.

(Subd (a) amended effective January 1, 2007; previously amended effective January 1, 1988, January 1, 1990, June 6, 1990, and January 1, 2006.)

(b) Examination of jurors

The trial judge's examination of prospective jurors in criminal cases should include the areas of inquiry listed below and any other matters affecting their qualifications to serve as jurors in the case. The trial judge may want to use the *Juror Questionnaire for Criminal Cases* (form MC-002) to assist in the examination of prospective jurors. Form MC-002 is an optional form and is not intended to constitute the complete examination of prospective jurors. Form MC-002 is a tool for trial judges to use to make the initial examination of prospective jurors more efficient. If the court chooses to use form MC-002, its use and any supplemental questions submitted by counsel must be discussed at the pre–voir dire conference required by rule 4.200. Excusing jurors based on questionnaire answers alone is generally not advisable.

(1) Address to entire jury panel:

Do any of you have any vision, hearing, or medical difficulties that may affect your jury service? *(Response.)*

(2) In particular, for lengthy trials. Address to entire jury panel:

This trial will likely take _____ days to complete, but it may take longer. *(State the days and times during the day when the trial will be in session.)*

Will any of you find it difficult or impossible to participate for this period of time? *(After the entire panel has been screened for time hardships, direct the excused jurors to return to the jury assembly room for possible reassignment to other courtrooms for voir dire.)*

(3) At this point the court may wish to submit any juror questionnaire that has been developed to assist in voir dire. The court should remind panel members that their answers on the questionnaire are given under penalty of perjury. In addition, if a questionnaire is used, the court and counsel may wish to question individual prospective jurors further based on their responses to particular questions, and a procedure for doing so should be established at the pre–voir dire conference. Therefore, it may not be necessary to ask all of the prospective jurors questions 5 through 25 that follow, although the text may assist the

court with following up with individual jurors about answers given on the questionnaire.

To the entire jury panel:

I am now going to question the prospective jurors who are seated in the jury box concerning their qualifications to serve as jurors in this case. All the remaining members of this jury panel, however, should pay close attention to my questions, making note of the answers you would give if these questions were put to you personally. If and when any other member of this panel is called to the jury box, he or she will be asked to answer these questions.

(4) *To the prospective jurors seated in the jury box:*

In the trial of this case each side is entitled to have a fair, unbiased, and unprejudiced jury. If there is any fact or any reason why any of you might be biased or prejudiced in any way, you must disclose such reasons when you are asked to do so. It is your duty to make this disclosure.

(5) *To the prospective jurors seated in the jury box:*

Do any of you know anyone else on this jury panel? *(Response.)*

(6) Ladies and gentlemen of the jury: This is a criminal case entitled *The People of the State of California v. _____*. The (defendant is)(defendants are) seated _____.

(A) (Mr.)(Ms.)(defendant), please stand and face the prospective jurors in the jury box and in the audience seats. *(Defendant complies.)* Is there any member of the jury panel who is acquainted with the defendant or who may have heard (his)(her) name before today? If your answer is yes, please raise your hand.

(B) The defendant, _____, is represented by (his)(her) attorney, _____, who is seated _____.
(Mr.)(Ms.)(defense attorney), would you please stand? Is there any member of the jury panel who knows or who has seen (Mr.)(Ms.) _____ before today?

(C) *(If there is more than one defendant, repeat (a) and (b) for each codefendant.)*

- (7) The People are represented by _____, Deputy District Attorney, who is seated _____. (Mr.)(Ms.)(district attorney), would you please stand? Is there any member of the jury panel who knows or who has seen (Mr.)(Ms.) _____ before today?
- (8) The defendant is charged by an (information)(indictment) filed by the district attorney with having committed the crime of _____, in violation of section _____ of the _____ Code, it being alleged that on or about _____ in the County of _____, the defendant did *(describe the offense)*. To (this charge)(these charges) the defendant has pleaded not guilty, and the jury will have to decide whether the defendant's guilt has been proved beyond a reasonable doubt. Having heard the charge(s) that (has)(have) been filed against the defendant, is there any member of the jury panel who feels that he or she cannot give this defendant a fair trial because of the nature of the charge(s) against (him)(her)?
- (9) Have any of you heard of, or have you any prior knowledge of, the facts or events in this case?
- (10) Do any of you have any ethical, religious, political, or other beliefs that would prevent you from serving as a juror in this case?
- (11) During the trial of this case, the following persons may be called as witnesses to testify on behalf of the parties or their names may be mentioned in evidence: _____ *(Do not identify the side on whose behalf the witness might be called.)* Have any of you heard of or otherwise been acquainted with any of the witnesses just named? You should note that the parties are not required and might not wish to call all of these witnesses, and they may later find it necessary to call other witnesses.
- (12) Do any of you have any financial or personal interest in the outcome of this case?
- (13) How many of you have served previously as jurors in a criminal case?

To each person whose hand is raised:

- (A) (Mr.)(Ms.) _____(or Juror ID number), you indicated you have been a juror in a criminal case. What were the charges in that case? *(Response.)*

- (B) Do you feel you can put aside whatever you heard in that case and decide this case on the evidence to be presented and the law as I will state it to you? (*Response.*)
- (14) May I see the hands of those jurors who have served on civil cases, but who have never served on a criminal case? (*Response.*) You must understand that there are substantial differences in the rules applicable to the trial of criminal cases from those applicable to the trial of civil cases. This is particularly true respecting the burden of proof that is placed on the People. In a civil case we say that the plaintiff must prove (his) (her) case by a preponderance of the evidence. In a criminal case, the defendant is presumed to be innocent, and before (he)(she) may be found guilty, the People must prove (his)(her) guilt beyond a reasonable doubt. If the jury has a reasonable doubt, the defendant must be acquitted. Will each of you be able to set aside the instructions that you received in your previous cases and try this case on the instructions given by me in this case?
- (15) The fact that the defendant is in court for trial, or that charges have been made against (him)(her), is no evidence whatever of (his)(her) guilt. The jurors are to consider only evidence properly received in the courtroom in determining whether the defendant's guilt has been proved beyond a reasonable doubt. The defendant has entered a plea of "not guilty," which is a complete denial, making it necessary for the People, acting through the district attorney, to prove beyond a reasonable doubt the case against the defendant. If the evidence does not convince you of the truth of the charges beyond a reasonable doubt, the defendant is entitled to a verdict of not guilty.

In the following questions I will be using the terms "relative," "close friend," and "anyone with whom you have a significant personal relationship." The term "anyone with whom you have a significant personal relationship" means a domestic partner, life partner, former spouse, or anyone with whom you have an influential or intimate relationship that you would characterize as important.

- (16) Have you or, to your knowledge, has any relative, close friend, or anyone with whom you have a significant personal relationship, ever been the victim of any crime? (*Response.*)
- (17) Have you or, to your knowledge, has any relative, close friend, or anyone with whom you have a significant personal relationship, ever had any contact with law enforcement, including being: (a) stopped by

the police? (b) accused of misconduct, whether or not it was a crime? (c) investigated as a suspect in a criminal case? (d) charged with a crime? or (e) a criminal defendant? (*Response.*)

(18) Have you or, to your knowledge, has any relative, close friend, or anyone with whom you have a significant personal relationship, had any law enforcement training or experience or been a member of or been employed by any law enforcement agency? By law enforcement agency, I include any police department, sheriff's office, highway patrol, district attorney's office, city attorney's office, attorney general's office, United States attorney's office, FBI, and others. (*If so, elicit the details of the experience or connection.*)

(19) Would you be able to listen to the testimony of a police or other peace officer and measure it the same way you would that of any other witness?

(20) *When appropriate:*

It may appear that one or more of the parties, attorneys, or witnesses come from a particular national, racial, or religious group (or may have a lifestyle different from your own). Would this in any way affect your judgment or the weight and credibility you would give to their testimony?

(21) It is important that I have your assurance that you will follow my instructions and rulings on the law and will apply that law to this case. To put it somewhat differently, whether you approve or disapprove of the court's rulings or instructions, it is your solemn duty to accept as correct these statements of the law. You must accept and follow my instructions even if you disagree with the law. You may not substitute your own idea of what you think the law ought to be. Will all of you follow the law as given to you by me in this case?

(22) Each of you should now state your:

(A) (Name)(or juror ID number);

(B) Children's ages and the number of children, if any;

(C) Occupation;

(D) Occupational history; and

(E) Present employer;

And for your spouse or anyone with whom you have a significant personal relationship, their:

(F) Occupations;

(G) Occupational histories; and

(H) Present employers;

And for your adult children, their:

(I) Occupations;

(J) Occupational histories; and

(K) Present employers.

Please begin with juror number one.

(23) Do you know of any other reason, or has anything occurred during this question period, that might make you doubtful you would be a completely fair and impartial juror in this case or why you should not be on this jury? If there is, it is your duty to disclose the reason at this time.

(24) *After the court conducts the initial examination, Code of Civil Procedure section 223 allows counsel to ask supplemental questions for the purposes of uncovering possible bias or prejudice relevant to challenges for cause. The court may, in the exercise of its discretion, limit the oral and direct questioning of prospective jurors by counsel. The court may specify the maximum amount of time that counsel for each party may question an individual juror, or may specify an aggregate amount of time for each party, which can then be allocated among the prospective jurors by counsel.*

(25) *After the conclusion of counsel questioning, the court asks each side to exercise any challenges for cause.*

(26) *After ruling on challenges for cause, if any, the court calls on each side, alternately, to exercise any preemptory challenges.*

(27) *If a new prospective juror is seated, the court should ask him or her:*

- (A) Have you heard my questions to the other prospective jurors?
- (B) Have any of the questions I have asked raised any doubt in your mind as to whether you could be a fair and impartial juror in this case?
- (C) Can you think of any other reason why you might not be able to try this case fairly and impartially to both the prosecution and defendant, or why you should not be on this jury?
- (D) Give us the personal information requested concerning your occupation, that of your spouse or anyone with whom you have a significant personal relationship, that of your adult children, and your prior jury experience.

(Thereupon, as to each new juror seated, the court must permit counsel to ask supplemental questions, and proceed with challenges as above.)

(Subd (b) amended effective January 1, 2007; adopted as subd (c) effective July 1, 1974; amended and relettered effective June 6, 1990; previously amended effective January 1, 1997, January 1, 2004, and January 1, 2006.)

(c) Improper questions

When any counsel examines the prospective jurors, the trial judge should not permit counsel to attempt to precondition the prospective jurors to a particular result or allow counsel to comment on the personal lives and families of the parties or their attorneys.

(Subd (c) amended effective January 1, 2006; adopted as subd (e) effective July 1, 1974; previously amended and relettered as subd (d) effective June 6, 1990; relettered as subd (c) effective January 1, 1997.)

Standard 4.30 amended and renumbered effective January 1, 2007; adopted as sec. 8.5 July 1, 1974; previously amended effective January 1, 1988, January 1, 1990, June 6, 1990, January 1, 1997, January 1, 2004, and January 1, 2006.

Standard 4.40. Traffic infraction procedures

To insure the prompt and efficient disposition of traffic infraction cases, each court should:

- (1) Authorize the clerk, within limits set by the court, to grant defendants extensions of time for the posting of bail and payment of fines.
- (2) Authorize the clerk or other court official to accept offers of proof of correction or compliance in accordance with the bail schedule without the necessity of a court appearance.

Standard 4.40 amended and renumbered effective January 1, 2007; adopted as sec. 10.5 effective July 1, 1977.

Standard 4.41. Courtesy notice—traffic procedures

(a) Mailed courtesy notice

Each court should promptly mail a “courtesy notice” to the address shown on the Notice to Appear. The date of mailing should allow for the plea-by-mail option in infraction cases.

(Subd (a) amended and lettered effective January 1, 2007; adopted as part of unlettered subdivision effective January 1, 1987.)

(b) Minimum information in courtesy notice

In addition to information obtained from the Notice to Appear, the courtesy notice should contain at least the following information:

- (1) An appearance date, time, and location;
- (2) Whether a court appearance is mandatory or optional;
- (3) The total bail amount if forfeitable;
- (4) The procedure required for remitting bail;
- (5) The plea-by-mail option in infraction cases and the number of appearances required where trial is requested;
- (6) The consequences of failure to appear; and
- (7) A telephone number to call for additional information.

(Subd (b) amended and lettered effective January 1, 2007; adopted as part of unlettered subdivision effective January 1, 1987.)

(c) Additional information in courtesy notice

Courts should provide additional information in the courtesy notice, as appropriate, including the following:

- (1) Informal trial, trial by declaration, traffic violators' school, and telephone scheduling options; and
- (2) Correction requirements and procedures.

(Subd (c) amended and lettered effective January 1, 2007; adopted as part of unlettered subdivision effective January 1, 1987.)

Standard 4.41 amended and renumbered effective January 1, 2007; adopted as sec. 10.6 effective January 1, 1987.

Standard 4.42. Traffic infraction trial scheduling

(a) Review of procedures

Courts should adopt and periodically review procedures governing the scheduling of traffic infraction trials that minimize appearance time and costs for defendants, witnesses, and law enforcement officers.

(Subd (a) amended and lettered effective January 1, 2007; adopted as part of unlettered subdivision effective January 1, 1987.)

(b) Meetings

Courts should hold periodic meetings with representatives from local law enforcement agencies, the prosecution and defense bars, and other interested groups as appropriate in an effort to achieve this goal.

(Subd (b) amended and lettered effective January 1, 2007; adopted as part of unlettered subdivision effective January 1, 1987.)

Standard 4.42 amended and renumbered effective January 1, 2007; adopted as sec. 10.7 effective January 1, 1987.

Title 5. Standards for Cases Involving Children and Families

Standard 5.10. Guidelines for determining payment for costs of appointed counsel for children in family court

Standard 5.11. Guidelines for appointment of counsel for minors when time with or responsibility for the minor is disputed

Standard 5.20. Uniform standards of practice for providers of supervised visitation

5.30. Family court matters

Standard 5.40. Juvenile court matters

Standard 5.45. Resource guidelines for child abuse and neglect cases

Standard 5.10. Guidelines for determining payment for costs of appointed counsel for children in family court

(a) General

Whenever in a proceeding under the Family Law Act counsel is appointed to represent children under Family Code sections 3150–3153, the court should determine the ability of the parties to pay all or a portion of the cost of the counsel.

(Subd (a) amended effective January 1, 2007; previously amended effective January 1, 2005.)

(b) Presumed inability to pay

If a party is currently eligible for a fee waiver under Government Code section 68511.3 (in forma pauperis), the party should be deemed unable to pay any part of the costs of the appointed counsel.

(c) Individual determination required

In all other cases, the court should determine ability to pay based on the party's income and assets reasonably available. The court may require the party to complete and file an income and expense statement unless the party has filed one in the proceeding that represents the party's financial status at the time of the determination.

(Subd (c) amended effective January 1, 2007.)

(d) Time for determination

The court may make the determination of the ability to pay at the time of appointment of counsel or thereafter at the request of the appointed counsel, but not later than 30 days after the attorney is relieved as attorney of record.

(Subd (d) amended effective January 1, 2007.)

(e) Payment of attorney

If the court finds the parties are unable to pay all or a portion of the cost of appointed counsel, under Family Code section 3153(b) it must pay the portion the parties are unable to pay. The order may provide for progress or installment payments.

(Subd (e) amended effective January 1, 2007; previously amended effective January 1, 2005, and July 1, 2005.)

Standard 5.10 amended and renumbered effective January 1, 2007; adopted as sec. 20.6 effective January 1, 1992; previously amended effective January 1, 2005, and July 1, 2005.

Standard 5.11. Guidelines for appointment of counsel for minors when time with or responsibility for the minor is disputed

(a) Request for appointment of counsel

In any family law or other proceeding where two or more persons are disputing the division of time with (physical custody) or responsibility for (legal custody) a minor child, the court should consider the appointment of an attorney to represent the best interest of the child if requested to do so by either party, the attorney for either party, a mediator performing duties under Civil Code section 4607, a professional person making a custody recommendation under Civil Code section 4602, a court-appointed guardian ad litem or special advocate, the child, or any relative of the child; and the court may also appoint counsel on its own motion.

(b) Guidelines

In considering the appointment of counsel for the minor, the court should take into account the following factors:

- (1) Whether the dispute is exceptionally intense or protracted;

- (2) Whether the child is subjected to stress on account of the dispute, which might be alleviated by the intervention of counsel representing the child;
- (3) Whether an attorney representing the child would be likely to provide the court with significant information not otherwise readily available or likely to be presented;
- (4) Whether the dispute involves allegations that a parent, a stepparent, or other person with the parent's knowledge has physically or sexually abused the child;
- (5) Whether it appears that neither parent is capable of providing a stable and secure environment;
- (6) Whether the child is capable of verbally expressing his or her views;
- (7) Whether attorneys are available for appointment who are sensitive to the needs of children and the issues raised in representing them; and
- (8) Whether the best interest of the child appears to require special representation.

(Subd (b) amended effective January 1, 2007.)

(c) Contents of order

If counsel is appointed to represent a child under (b), the order may specify the following:

- (1) The issues regarding which the child's representation is ordered;
- (2) Any tasks related to the case that would benefit from the services of the attorney;
- (3) The duration of the appointment, which may be extended on a showing of good cause; and
- (4) The source of funds and manner of reimbursement for costs and attorney fees.

(Subd (c) amended effective January 1, 2007; adopted effective January 1, 1990.)

(d) Two or more children

If there are two or more children, the court should consider whether there may be such a conflict between the children that one attorney cannot adequately represent them all.

Standard 5.11 amended and renumbered effective January 1, 2007; adopted as sec. 20.5 effective January 1, 1990.

Standard 5.20. Uniform standards of practice for providers of supervised visitation

(a) Scope of service

This standard defines the standards of practice, including duties and obligations, for providers of supervised visitation under Family Code section 3200. Unless specified otherwise, the standards of practice are designed to apply to all providers of supervised visitation, whether the provider is a friend, relative, paid independent contractor, employee, intern, or volunteer operating independently or through a supervised visitation center or agency. The goal of these standards of practice is to assure the safety and welfare of the child, adults, and providers of supervised visitation. Once safety is assured, the best interest of the child is the paramount consideration at all stages and particularly in deciding the manner in which supervision is provided. Each court is encouraged to adopt local court rules necessary to implement these standards of practice.

(Subd (a) amended effective January 1, 2007.)

(b) Definition

Family Code section 3200 defines the term “provider” as including any individual or supervised visitation center that monitors visitation. Supervised visitation is contact between a noncustodial party and one or more children in the presence of a neutral third person. These standards of practice and this definition do not apply to supervision of visitation exchanges only, but may be useful in that context.

(Subd (b) amended effective January 1, 2007.)

(c) Qualifications of the provider

Who provides the supervision and the manner in which supervision is provided depends on different factors, including local resources, the financial situation of the parties, and the degree of risk in each case. While the court makes the final decision as to the manner in which supervision is provided and any terms or conditions, the court may consider recommendations by the attorney for the child, the parties and their attorneys, Family Court Services staff, evaluators, therapists, and providers of supervised visitation.

- (1) A “nonprofessional provider” is any person who is not paid for providing supervised visitation services. Unless otherwise ordered by the court or stipulated by the parties, the nonprofessional provider should:
 - (A) Be 21 years of age or older;
 - (B) Have no conviction for driving under the influence (DUI) within the last 5 years;
 - (C) Not have been on probation or parole for the last 10 years;
 - (D) Have no record of a conviction for child molestation, child abuse, or other crimes against a person;
 - (E) Have proof of automobile insurance if transporting the child;
 - (F) Have no civil, criminal, or juvenile restraining orders within the last 10 years;
 - (G) Have no current or past court order in which the provider is the person being supervised;
 - (H) Not be financially dependent on the person being supervised;
 - (I) Have no conflict of interest under (g); and
 - (J) Agree to adhere to and enforce the court order regarding supervised visitation.
- (2) A “professional provider” is any person paid for providing supervised visitation services, or an independent contractor, employee, intern, or volunteer operating independently or through a supervised visitation center or agency. The professional provider should:

- (A) Be 21 years of age or older;
 - (B) Have no conviction for driving under the influence (DUI) within the last 5 years;
 - (C) Not have been on probation or parole for the last 10 years;
 - (D) Have no record of a conviction for child molestation, child abuse, or other crimes against a person;
 - (E) Have proof of automobile insurance if transporting the child;
 - (F) Have no civil, criminal, or juvenile restraining orders within the last 10 years;
 - (G) Have no current or past court order in which the provider is the person being supervised;
 - (H) Be able to speak the language of the party being supervised and of the child, or the provider must provide a neutral interpreter over the age of 18 who is able to do so;
 - (I) Have no conflict of interest under (g); and
 - (J) Agree to adhere to and enforce the court order regarding supervised visitation.
- (3) A “therapeutic provider” is a licensed mental health professional paid for providing supervised visitation services, including a psychiatrist, a psychologist, a clinical social worker, a marriage and family counselor, or an intern working under direct supervision of a qualified licensed mental health professional. A therapeutic provider should meet the qualifications provided in (c)(2). A judicial officer may order therapeutic supervision for cases requiring a clinical setting.

(Subd (c) amended effective January 1, 2007.)

(d) Training for providers

- (1) Each court is encouraged to make available to all providers informational materials about the role of a provider, the terms and conditions of supervised visitation, and the legal responsibilities and obligations of a provider under this standard.

- (2) In addition, professional and therapeutic providers should receive training that should include the following subjects:
 - (A) The role of a professional and therapeutic provider;
 - (B) Child abuse reporting laws;
 - (C) Record-keeping procedures;
 - (D) Screening, monitoring, and termination of visitation;
 - (E) Developmental needs of children;
 - (F) Legal responsibilities and obligations of a provider;
 - (G) Cultural sensitivity;
 - (H) Conflicts of interest;
 - (I) Confidentiality; and
 - (J) Issues relating to substance abuse, child abuse, sexual abuse, and domestic violence.

(Subd (d) adopted effective January 1, 2007.)

(e) Safety and security procedures

All providers should make every reasonable effort to assure the safety and welfare of the child and adults during the visitation. Supervised visitation centers should establish a written protocol with the assistance of the local law enforcement agency that describes the emergency assistance and responses that can be expected from the local law enforcement agency. In addition, the professional and therapeutic provider should:

- (1) Establish and state in writing minimum security procedures and inform the parties of these procedures before the commencement of supervised visitation;
- (2) Conduct comprehensive intake and screening to assess the nature and degree of risk for each case. The procedures for intake should include separate interviews with the parties before the first visit. During the

interview, the provider should obtain identifying information and explain the reasons for temporary suspension or termination of a visit under this standard. If the child is of sufficient age and capacity, the provider should include the child in part of the intake or orientation process. Any discussion should be presented to the child in a manner appropriate to the child's developmental stage;

- (3) Obtain during the intake process:
 - (A) Copies of any protective order;
 - (B) Current court orders;
 - (C) Any Judicial Council form relating to supervised visitation orders;
 - (D) A report of any written records of allegations of domestic violence or abuse; and
 - (E) An account of the child's health needs if the child has a chronic health condition;
- (4) Establish written procedures that must be followed in the event a child is abducted during supervised visitation; and
- (5) Suspend or terminate supervised visitation if the provider determines that the risk factors present are placing in jeopardy the safety and welfare of the child or provider as enumerated in (j).

(Subd (e) amended and relettered effective January 1, 2007; adopted as subd (d) effective January 1, 1998.)

(f) Ratio of children to provider

The ratio of children to a professional provider should be contingent on:

- (1) The degree of risk factors present in each case;
- (2) The nature of supervision required in each case;
- (3) The number and ages of the children to be supervised during a visit;
- (4) The number of people visiting the child during the visit;

- (5) The duration and location of the visit; and
- (6) The experience of the provider.

(Subd (f) amended and relettered effective January 1, 2007; adopted as subd (e) effective January 1, 1998.)

(g) Conflict of interest

All providers should maintain neutrality by refusing to discuss the merits of the case or agree with or support one party over another. Any discussion between a provider and the parties should be for the purposes of arranging visitation and providing for the safety of the children. In order to avoid a conflict of interest, the provider should not:

- (1) Be financially dependent on the person being supervised;
- (2) Be an employee of the person being supervised;
- (3) Be an employee of or affiliated with any superior court in the county in which the supervision is ordered unless specified in the employment contract; or
- (4) Be in an intimate relationship with the person being supervised.

(Subd (g) amended and relettered effective January 1, 2007; adopted as subd (f) effective January 1, 1998.)

(h) Maintenance and disclosure of records

- (1) Professional and therapeutic providers should keep a record for each case, including the following:
 - (A) A written record of each contact and visit, including the date, time, and duration of the contact or visit;
 - (B) Who attended the visit;
 - (C) A summary of activities during the visit;
 - (D) Actions taken by the provider, including any interruptions, terminations of a visit, and reasons for these actions;

- (E) An account of critical incidents, including physical or verbal altercations and threats;
 - (F) Violations of protective or court visitation orders;
 - (G) Any failure to comply with the terms and conditions of the visitation; and
 - (H) Any incidence of abuse as required by law.
- (2) Case recordings should be limited to facts, observations, and direct statements made by the parties, not personal conclusions, suggestions, or opinions of the provider. All contacts by the provider in person, in writing, or by telephone with either party, the children, the court, attorneys, mental health professionals, and referring agencies should be documented in the case file. All entries should be dated and signed by the person recording the entry.
 - (3) If ordered by the court or requested by either party or the attorney for either party or the attorney for the child, a report about the supervised visit should be produced. These reports should include facts, observations, and direct statements and not opinions or recommendations regarding future visitation unless ordered by the court. A copy of any report should be sent to all parties, their attorneys, and the attorney for the child.
 - (4) Any identifying information about the parties and the child, including addresses, telephone numbers, places of employment, and schools, is confidential, should not be disclosed, and should be deleted from documents before releasing them to any court, attorney, attorney for the child, party, mediator, evaluator, mental health professional, social worker, or referring agency, except as required in reporting suspected child abuse.

(Subd (h) amended and relettered effective January 1, 2007; adopted as subd (g) effective January 1, 1998.)

(i) Confidentiality

Communications between parties and providers of supervised visitation are not protected by any privilege of confidentiality. The psychotherapist-patient privilege does not apply during therapeutic supervision. Professional and

therapeutic providers should, whenever possible, maintain confidentiality regarding the case except when:

- (1) Ordered by the court;
- (2) Subpoenaed to produce records or testify in court;
- (3) Requested to provide information about the case by a mediator or evaluator in conjunction with a court-ordered mediation, investigation, or evaluation;
- (4) Required to provide information about the case by Child Protective Services; or
- (5) Requested to provide information about the case by law enforcement.

(Subd (i) amended and relettered effective January 1, 2007; adopted as subd (h) effective January 1, 1998.)

(j) Delineation of terms and conditions

The provider bears the sole responsibility for enforcement of all the terms and conditions of any supervised visitation. Unless otherwise ordered by the court, the provider should:

- (1) Monitor conditions to assure the safety and welfare of the child;
- (2) Enforce the frequency and duration of the visits as ordered by the court;
- (3) Avoid any attempt to take sides with either party;
- (4) Ensure that all contact between the child and the noncustodial party is within the provider's hearing and sight at all times, and that discussions are audible to the provider;
- (5) Speak in a language spoken by the child and the noncustodial party;
- (6) Allow no derogatory comments about the other parent, his or her family, caretaker, child, or child's siblings;
- (7) Allow no discussion of the court case or possible future outcomes;

- (8) Allow neither the provider nor the child to be used to gather information about the other party or caretaker or to transmit documents, information, or personal possessions;
- (9) Allow no spanking, hitting, or threatening the child;
- (10) Allow no visits to occur while the visiting party appears to be under the influence of alcohol or illegal drugs;
- (11) Allow no emotional, verbal, physical, or sexual abuse; and
- (12) Ensure that the parties follow any additional rules set forth by the provider or the court.

(Subd (j) amended and relettered effective January 1, 2007; adopted as subd (i) effective January 1, 1998.)

(k) Safety considerations for sexual abuse cases

In cases where there are allegations of sexual abuse, in addition to the requirements of (j), the provider should comply with the following terms and conditions, unless otherwise ordered by the court:

- (1) Allow no exchanges of gifts, money, or cards;
- (2) Allow no photographing, audiotaping, or videotaping of the child;
- (3) Allow no physical contact with the child such as lap sitting, hair combing, stroking, hand holding, prolonged hugging, wrestling, tickling, horseplaying, changing diapers, or accompanying the child to the bathroom;
- (4) Allow no whispering, passing notes, hand signals, or body signals; and
- (5) Allow no supervised visitation in the location where the alleged sexual abuse occurred.

(Subd (k) amended and relettered effective January 1, 2007; adopted as subd (j) effective January 1, 1998.)

(l) Legal responsibilities and obligations of a provider

All providers of supervised visitation should:

- (1) Advise the parties before commencement of supervised visitation that no confidential privilege exists;
- (2) Report suspected child abuse to the appropriate agency, as provided by law, and inform the parties of the provider's obligation to make such reports;
- (3) Implement the terms and conditions under (j); and
- (4) Suspend or terminate visitation under (n).

(Subd (l) amended and relettered effective January 1, 2007; adopted as subd (k) effective January 1, 1998.)

(m) Additional legal responsibilities of professional and therapeutic providers

In addition to the legal responsibilities and obligations required in (l), professional and therapeutic providers should:

- (1) Prepare a written contract to be signed by the parties before commencement of the supervised visitation. The contract should inform each party of the terms and conditions of supervised visitation;
- (2) Review custody and visitation orders relevant to the supervised visitation;
- (3) Implement an intake and screening procedure under (e)(2); and
- (4) Comply with additional requirements under (o).

(Subd (m) amended and relettered effective January 1, 2007; adopted as subd (l) effective January 1, 1998.)

(n) Temporary suspension or termination of supervised visitation

- (1) All providers should make every reasonable effort to provide a safe visit for the child and the noncustodial party.
- (2) However, if a provider determines that the rules of the visit have been violated, the child has become acutely distressed, or the safety of the

child or the provider is at risk, the visit may be temporarily interrupted, rescheduled at a later date, or terminated.

- (3) All interruptions or terminations of visits should be recorded in the case file.
- (4) All providers should advise both parties of the reasons for interruption of a visit or termination.

(Subd (n) amended and relettered effective January 1, 2007; adopted as subd (m) effective January 1, 1998.)

(o) Additional requirements for professional and therapeutic providers

Professional and therapeutic providers should state the reasons for temporary suspension or termination of supervised visitation in writing and provide the written statement to both parties, their attorneys, the attorney for the child, and the court.

(Subd (o) amended and relettered effective January 1, 2007; adopted as subd (n) effective January 1, 1998.)

Standard 5.20 amended and renumbered effective January 1, 2007; adopted as sec. 26.2 effective January 1, 1998.

Standard 5.30. Family court matters

(a) Judicial assignments to family court

In a court with a separate family court, the presiding judge of the superior court should assign judges to the family court to serve for a minimum of three years. In selecting judges for family court assignments, the presiding judge should consider, in addition to rule 10.603(c)(1)(A) of the California Rules of Court, the judge's prior experience in family law litigation and mediation, as well as whether the judge prefers to serve in a family law department.

(b) Case assignment to same department

To the extent possible, family law actions related to the same family should be assigned to the same judicial officer for all purposes, so that all decisions that are made in a case through final judgment are issued by the same judicial officer.

(c) Importance of family court

The supervising judge in the family court, in consultation with the presiding judge of the superior court, should:

- (1) Motivate and educate other judges regarding the significance of family court; and
- (2) Work to ensure that sufficient judicial officers, court staff, family law facilitators, child custody mediators and evaluators, interpreters, financial resources, and adequate facilities are assigned to the family court to allow adequate time to hear and decide the matters before it.

(d) Compensation for court-appointed attorneys

The supervising judge of the family court should ensure that court-appointed attorneys in the family court are compensated at a level equivalent to attorneys appointed by the court in comparable types of cases.

(e) Training and education

Family court law is a specialized area of the law that requires dedication and study. The supervising judge of the family court has a responsibility to maintain high-quality services in family court. The quality of services provided by judicial officers and court staff depends, in significant part, on appropriate training and education, from the beginning of the family court assignment and on a continuing basis thereafter.

- (1) Family court judicial officers, family law facilitators, child custody mediators and evaluators, interpreters, other court staff, and court-appointed attorneys should have sufficient training to perform their jobs competently.
- (2) The supervising judge of the family court should promote access to printed, electronic, Internet, and other family law resources.

(f) Unique role of a family court

Under the direction of the presiding judge of the superior court, the family court, to the extent that it does not interfere with the adjudication process or violate any ethical constraints, is encouraged to:

- (1) Provide active leadership within the community in determining the needs of, and obtaining and developing resources and services for children and families who participate in the family law court system;
- (2) Investigate and determine the availability of specific prevention, intervention, and treatment services in the community for families who come before the family courts;
- (3) Take an active role in helping the court develop rules and procedures that will result in the ordering of appropriate treatment and services for children and families;
- (4) Exercise a leadership role in the development and maintenance of services for self-represented and financially disadvantaged litigants;
- (5) Take an active part in the formation of a community-wide network to promote and coordinate private- and public-sector efforts to focus attention and resources on the needs of family law litigants;
- (6) Educate the community and its institutions, including the media, concerning the role of the family court in meeting the complex needs of families;
- (7) Encourage the development of community services and resources to assist families and children in the family court system, including self-help information; supervised visitation; substance abuse and drug prevention, intervention, and treatment; services for families with domestic violence issues; counseling; parenting education; vocational training; mediation; alternative dispute resolution options; and other resources to support families;
- (8) Manage cases more efficiently and effectively to avoid conflicting orders;
- (9) Take an active role in promoting completion of cases in a timely manner;
- (10) Appoint counsel for children in appropriate family law custody cases; and
- (11) Ensure that the best interest of children is served throughout the family court process.

(g) Appointment of attorneys and other persons

A court should follow the guidelines of standard 10.21 of the California Standards of Judicial Administration when appointing attorneys, arbitrators, mediators, referees, masters, receivers, and other persons.

Standard 5.30 adopted effective January 1, 2007.

Advisory Committee Comment

Standard 5.30. Family court matters include proceedings under the Family Code for dissolution of marriage, nullity of marriage, legal separation, custody and support of minor children; or actions under the Domestic Violence Prevention Act, the Uniform Parentage Act, the Uniform Child Custody Jurisdiction and Enforcement Act, Domestic Partner Registration Act, and the Uniform Interstate Family Support Act; local child support agency actions under the Family Code; and contempt proceedings relating to family law or local child support agency actions.

Subdivision (a). This subdivision implements the legislative mandate of Family Code section 2330.3(b) requiring the Judicial Council to adopt a standard of judicial administration prescribing a minimum length of a judge's family law assignment. Standard 5.30 sets a standard in family court that is similar to the juvenile court standards stated in standard 5.40, Juvenile Court Matters.

Family law is complex and constantly evolving. The laws concerning child custody, support, domestic violence, and property division are always changing. Not only does the family law judge have to understand family law and procedure but also issues that involve bankruptcy, estate planning, insurance, state and federal tax law, business, immigration, and criminal law, which can frequently arise in the context of a family law case. Because of the complexity and long-range impact of the judicial determinations, the presiding judge should strive to place experienced judges in family law assignments.

Considering the constantly evolving changes in the law, as well as the unique nature of the proceedings in family court, the family court judge should be willing to commit to a minimum tenure of three years. Not only does this tenure afford the judge the opportunity to become well acquainted with the complexity of the family court process, but it also provides continuity to a system that demands it.

Subdivision (b) This subdivision implements the legislative mandate of Family Code section 2330.3(a), which requires that dissolution actions, to the greatest extent possible, be assigned to the same superior court department for all purposes, so that all decisions in a case are made by the same judicial officer. This subdivision expands the Legislature's requirement by including other related family court matters, such as those filed under the Uniform Parentage Act, Domestic Violence Prevention Act, in recognition that the same families may enter the family court through a variety of actions.

The committee recognizes that having the same judicial officer hear all actions involving the same family may not be practical in all cases for reasons that include funding limitations, assignment rotations, illness, vacations, and retirements. In some courts, one judge does not hear all aspects of a family's legal problems because of multiple courthouse locations or specifically designated funding of certain issues (e.g., Title IV-D child support issues). However, the

committee agrees with the legislative intent in enacting section 2330.3(a), which was to expedite and simplify the dissolution process, reduce the litigation expenses and costs, and encourage greater judicial supervision of cases involving dissolution of marriage. Family law actions often involve a succession of hearings to resolve the various issues that arise. A single judge's involvement over this period of time allows the judge to be more familiar with the particular actions and issues, which creates judicial efficiencies that expedite their handling. One judge hearing all actions involving a family also helps avoid conflicting orders, alleviates the need to hold multiple hearings on the same issue, improves the court process, promotes consistency, and enhances fairness in family proceedings.

Subdivision (c). The family court is an integral part of the justice system. Decisions made by family law judges can have significant and lasting impacts on the lives of the parties and their children. The work of the family court has a significant impact on the health of families and ultimately on the strength of the community. The parties deserve to have adequate time to present their cases, and the judges should have the resources they need to enable them to make informed decisions. It is only through the constant exertion of pressure to maintain resources and the continuous education of court-related personnel and administrators that the historic trend to give less priority and provide fewer resources to the family court can be changed.

Subdivision (d). Fees paid to court-appointed attorneys who represent children in family court are sometimes less than the fees paid attorneys doing other comparable legal work thereby demeaning the work of the family court and leading many to believe that such work is less important. It may also discourage attorneys from accepting these appointments. Compensation for legal work in the family court should reflect the importance of the work.

Subdivision (e)(2). A significant barrier to having well-trained attorneys and educated self-represented litigants is a lack of current educational materials relating to family court practice. Law libraries, law offices, and court systems traditionally have not devoted adequate resources to purchase such educational materials. With advances in technology, resources can be accessed, shared, developed, or made available through electronic/computer-based, online, and multimedia means, audiotape and videotape, DVD, CD, Web-based audiocasts and videocasts, and other media to supplement print materials.

Subdivision (f). In addition to the traditional role of fairly and efficiently resolving disputes before the court, a family court judge occupies a unique position within California's judiciary. California law empowers the family court judge not only to order relief related to the needs of families under its jurisdiction but also to enforce and review the compliance with such orders. This oversight function includes the obligation to understand and work with those public and private agencies that provide services for families. As such, the family court assignment requires a dramatic shift in emphasis from judging in the traditional sense. Active and public judicial support and encouragement of programs serving children and families in family court poses no conflict with traditional concepts of judicial ethics and is an important function of the family court judge. These efforts enhance the overall administration of justice for families.

Standard 5.40. Juvenile court matters

(a) Assignments to juvenile court

The presiding judge of the superior court should assign judges to the juvenile court to serve for a minimum of three years. Priority should be given to judges who have expressed an interest in the assignment.

(b) Importance of juvenile court

The presiding judge of the juvenile court, in consultation with the presiding judge of the superior court, should:

- (1) Motivate and educate other judges regarding the significance of juvenile court.
- (2) Work to ensure that sufficient judges and staff, facilities, and financial resources are assigned to the juvenile court to allow adequate time to hear and decide the matters before it.

(Subd (b) amended effective January 1, 2007.)

(c) Standards of representation and compensation

The presiding judge of the juvenile court should:

- (1) Encourage attorneys who practice in juvenile court, including all court-appointed and contract attorneys, to continue their practice in juvenile court for substantial periods of time. A substantial period of time is at least two years and preferably from three to five years.
- (2) Confer with the county public defender, county district attorney, county counsel, and other public law office leaders and encourage them to raise the status of attorneys working in the juvenile courts as follows: hire attorneys who are interested in serving in the juvenile court for a substantial part of their careers; permit and encourage attorneys, based on interest and ability, to remain in juvenile court assignments for significant periods of time; and work to ensure that attorneys who have chosen to serve in the juvenile court have the same promotional and salary opportunities as attorneys practicing in other assignments within a law office.
- (3) Establish minimum standards of practice to which all court-appointed and public office attorneys will be expected to conform. These standards should delineate the responsibilities of attorneys relative to investigation and evaluation of the case, preparation for and conduct of hearings, and advocacy for their respective clients.

- (4) In conjunction with other leaders in the legal community, ensure that attorneys appointed in the juvenile court are compensated in a manner equivalent to attorneys appointed by the court in other types of cases.

(Subd (c) amended effective January 1, 2007; adopted effective July 1, 1992.)

(d) Training and orientation

The presiding judge of the juvenile court should:

- (1) Establish relevant prerequisites for court-appointed attorneys and advocates in the juvenile court.
- (2) Develop orientation and in-service training programs for judicial officers, attorneys, volunteers, law enforcement personnel, court personnel, and child advocates to ensure that all are adequately trained concerning all issues relating to special education rights and responsibilities, including the right of each child with exceptional needs to receive a free, appropriate public education and the right of each child with educational disabilities to receive accommodations.
- (3) Promote the establishment of a library or other resource center in which information about juvenile court practice (including books, periodicals, videotapes, and other training materials) can be collected and made available to all participants in the juvenile system.
- (4) Ensure that attorneys who appear in juvenile court have sufficient training to perform their jobs competently, as follows: require that all court-appointed attorneys meet minimum training and continuing legal education standards as a condition of their appointment to juvenile court matters; and encourage the leaders of public law offices that have responsibilities in juvenile court to require their attorneys who appear in juvenile court to have at least the same training and continuing legal education required of court-appointed attorneys.

(Subd (d) amended effective January 1, 2001; adopted effective July 1, 1989; previously amended and relettered effective July 1, 1992.)

(e) Unique role of a juvenile court judge

Judges of the juvenile court, in consultation with the presiding judge of the juvenile court and the presiding judge of the superior court, to the extent that it does not interfere with the adjudication process, are encouraged to:

- (1) Provide active leadership within the community in determining the needs of and obtaining and developing resources and services for at-risk children and families. At-risk children include delinquents, dependents, and status offenders.
- (2) Investigate and determine the availability of specific prevention, intervention, and treatment services in the community for at-risk children and their families.
- (3) Exercise their authority by statute or rule to review, order, and enforce the delivery of specific services and treatment for at-risk children and their families.
- (4) Exercise a leadership role in the development and maintenance of permanent programs of interagency cooperation and coordination among the court and the various public agencies that serve at-risk children and their families.
- (5) Take an active part in the formation of a communitywide network to promote and unify private and public sector efforts to focus attention and resources for at-risk children and their families.
- (6) Maintain close liaison with school authorities and encourage coordination of policies and programs.
- (7) Educate the community and its institutions through every available means, including the media, concerning the role of the juvenile court in meeting the complex needs of at-risk children and their families.
- (8) Evaluate the criteria established by child protection agencies for initial removal and reunification decisions and communicate the court's expectations of what constitutes "reasonable efforts" to prevent removal or hasten return of the child.
- (9) Encourage the development of community services and resources to assist homeless, truant, runaway, and incorrigible children.
- (10) Be familiar with all detention facilities, placements, and institutions used by the court.

(11) Act in all instances consistent with the public safety and welfare.

(Subd (e) amended effective January 1, 2007; adopted effective July 1, 1989; previously relettered effective July 1, 1992.)

(f) Appointment of attorneys and other persons

For the appointment of attorneys, arbitrators, mediators, referees, masters, receivers, and other persons, each court should follow rule 10.611 and the guidelines of standard 10.21.

(Subd (f) amended effective January 1, 2007; adopted effective January 1, 1999.)

(g) Educational rights of children in the juvenile court

The juvenile court should be guided by certain general principles:

- (1) A significant number of children in the juvenile court process have exceptional needs that, if properly identified and assessed, would qualify such children to receive special education and related services under federal and state education law (a free, appropriate public education) (see Ed. Code, § 56000 et seq. and 20 U.S.C. § 1400 et seq.);
- (2) Many children in the juvenile court process have disabilities that, if properly identified and assessed, would qualify such children to receive educational accommodations (see § 504 of the Rehabilitation Act of 1973 [29 U.S.C. § 794; 34 C.F.R. § 104.1 et seq.]);
- (3) Unidentified and unremediated exceptional needs and unaccommodated disabilities have been found to correlate strongly with juvenile delinquency, substance abuse, mental health issues, teenage pregnancy, school failure and dropout, and adult unemployment and crime; and
- (4) The cost of incarcerating children is substantially greater than the cost of providing special education and related services to exceptional needs children and providing educational accommodations to children with disabilities.

(Subd (g) adopted effective January 1, 2001.)

(h) Role of the juvenile court

The juvenile court should:

- (1) Take responsibility, with the other juvenile court participants at every stage of the child's case, to ensure that the child's educational needs are met, regardless of whether the child is in the custody of a parent or is suitably placed in the custody of the child welfare agency or probation department and regardless of where the child is placed in school. Each child under the jurisdiction of the juvenile court with exceptional needs has the right to receive a free, appropriate public education, specially designed, at no cost to the parents, to meet the child's unique special education needs. (See Ed. Code, § 56031 and 20 U.S.C. § 1401(8).) Each child with disabilities under the jurisdiction of the juvenile court has the right to receive accommodations. (See § 504 of the Rehabilitation Act of 1973 [29 U.S.C. § 794; 34 C.F.R. § 104.1 et seq. (1980)].) The court should also ensure that each parent or guardian receives information and assistance concerning his or her child's educational entitlements as provided by law.
- (2) Provide oversight of the social service and probation agencies to ensure that a child's educational rights are investigated, reported, and monitored. The court should work within the statutory framework to accommodate the sharing of information between agencies. A child who comes before the court and is suspected of having exceptional needs or other educational disabilities should be referred in writing for an assessment to the child's school principal or to the school district's special education office. (See Ed. Code, §§ 56320–56329.) The child's parent, teacher, or other service provider may make the required written referral for assessment. (See Ed. Code, § 56029.)
- (3) Require that court reports, case plans, assessments, and permanency plans considered by the court address a child's educational entitlements and how those entitlements are being satisfied, and contain information to assist the court in deciding whether the right of the parent or guardian to make educational decisions for the child should be limited by the court under Welfare and Institutions Code section 361(a) or 726(b). Information concerning whether the school district has met its obligation to provide educational services to the child, including special educational services if the child has exceptional needs under Education Code section 56000 et seq., and to provide accommodations if the child has disabilities as defined in section 504 of the Rehabilitation Act of

1973 (29 U.S.C. § 794; 34 C.F.R. § 104.1 et seq. (1980)) should also be included, along with a recommendation for disposition.

- (4) Facilitate coordination of services by joining the local educational agency as a party when it appears that an educational agency has failed to fulfill its legal obligations to provide special education and related services or accommodations to a child in the juvenile court who has been identified as having exceptional needs or educational disabilities. (See Welf. & Inst. Code, §§ 362(a), 727(a).)
- (5) Make appropriate orders limiting the educational rights of a parent or guardian who cannot be located or identified, or who is unwilling or unable to be an active participant in ensuring that the child's educational needs are met, and appoint a responsible adult as educational representative for such a child or, if a representative cannot be identified and the child may be eligible for special education and related services or already has an individualized education program, use form JV-535 to refer the child to the local educational agency for special education and related services and prompt appointment of a surrogate parent. (Welf. & Inst. Code, §§ 361, 726; Ed. Code, § 56156.)
- (6) Ensure that special education, related services, and accommodations to which the child is entitled are provided whenever the child's school placement changes. (See Ed. Code, § 56325.)

(Subd (h) amended effective January 1, 2007; adopted effective January 1, 2001; previously amended effective January 1, 2004.)

Standard 5.40 amended and renumbered effective January 1, 2007; adopted as sec. 24 effective January 1, 1989; previously amended effective July 1, 1992, January 1, 1999; January 1, 2001, and January 1, 2004.

Advisory Committee Comment

Subdivision (a). Considering the constantly evolving changes in the law, as well as the unique nature of the proceedings in juvenile court, the juvenile court judge should be willing to commit to a tenure of three years. Not only does this tenure afford the judge the opportunity to become well acquainted with the total juvenile justice complex, but it also provides continuity to a system that demands it.

Dependency cases under Welfare and Institutions Code section 300 for the most part last 18 months. The juvenile court judge has a responsibility to oversee these cases, and a single judge's involvement over this period of time is important to help ensure positive results. The ultimate goal should be to perfect a system that serves the needs of both recipients and providers. This can only be done over time and with constant application of effective energy.

Subdivision (b)(2). The juvenile court is an integral part of the justice system. It is only through the constant exertion of pressure to maintain resources and the continuous education of court-related personnel and administrators that the historic trend to minimize the juvenile court can be contained.

Subdivision (c)(4). The quality of justice in the juvenile court is in large part dependent on the quality of the attorneys who appear on behalf of the different parties before the court. The presiding judge of the juvenile court plays a significant role in ensuring that a sufficient number of attorneys of high quality are available to the parties appearing in juvenile court.

Juvenile court practice requires attorneys who have both a special interest in and a substantive understanding of the work of the court. Obtaining and retaining qualified attorneys for the juvenile court requires effective recruiting, training, and employment considerations.

The importance of juvenile court work must be stressed to ensure that juvenile court assignments have the same status and career enhancement opportunities as other assignments for public law office attorneys.

The presiding judge of the juvenile court should urge leaders of public law offices serving the juvenile court to assign experienced, interested, and capable attorneys to that court, and to establish hiring and promotional policies that will encourage the development of a division of the office dedicated to working in the juvenile court.

National commentators are in accord with these propositions: “Court-appointed and public attorneys representing children in abuse and neglect cases, as well as judges, should be specially trained or experienced. Juvenile and family courts should not be the ‘training ground’ for inexperienced attorneys or judges.” (Metropolitan Court Judges Committee, National Council of Juvenile and Family Court Judges, *Deprived Children: A Judicial Response*—73 *Recommendations* (1986) p. 14.)

Fees paid to attorneys appearing in juvenile court are sometimes less than the fees paid attorneys doing other legal work. Such a payment scheme demeans the work of the juvenile court, leading many to believe that such work is less important. It may discourage attorneys from selecting juvenile court practice as a career option. The incarceration of a child in a detention facility or a child’s permanent loss of his or her family through a termination of parental rights proceeding is at least as important as any other work in the legal system. Compensation for the legal work in the juvenile court should reflect the importance of this work.

Subdivision (d)(4). Juvenile court law is a specialized area of the law that requires dedication and study. The juvenile court judge has a responsibility to maintain high quality in the practice of law in the juvenile court. The quality of representation in the juvenile court depends in good part on the education of the lawyers who appear there. In order to make certain that all parties receive adequate representation, it is important that attorneys have adequate training before they begin practice in juvenile court and on a continuing basis thereafter. The presiding judge of the juvenile court should mandate such training for all court-appointed attorneys and urge leaders of public law offices to provide at least comparable training for attorneys assigned to juvenile court.

A minimum of six hours of continuing legal education is suggested; more hours are recommended. Education methods can include lectures and tapes that meet the legal education requirements.

In addition to basic legal training in juvenile dependency and delinquency law, evidentiary issues, and effective trial practice techniques, training should also include important related issues, including child development, alternative resources for families, effects and treatment of substance abuse, domestic violence, abuse, neglect, modification and enforcement of all court orders, dependency, delinquency, guardianships, conservatorships, interviewing children, and emancipation. Education may also include observational experience such as site visits to institutions and operations critical to the juvenile court.

A significant barrier to the establishment and maintenance of well-trained attorneys is a lack of educational materials relating to juvenile court practice. Law libraries, law offices, and court systems traditionally do not devote adequate resources to the purchase of such educational materials.

Effective January 1, 1993, guidelines and training material will be available from the Administrative Office of the Courts.

Subdivision (e)(11). A superior court judge assigned to the juvenile court occupies a unique position within California's judiciary. In addition to the traditional role of fairly and efficiently resolving disputes before the court, the juvenile court judge is statutorily required to discharge other duties. California law empowers the juvenile court judge not only to order services for children under its jurisdiction, but also to enforce and review the delivery of those services. This oversight function includes the obligation to understand and work with the public and private agencies, including school systems, that provide services and treatment programs for children and families. As such, the juvenile court assignment requires a dramatic shift in emphasis from judging in the traditional sense.

The legislative directive to juvenile court judges to "improve system performance in a vigorous and ongoing manner" (Welf. & Inst. Code, § 202) poses no conflict with traditional concepts of judicial ethics. Active and public judicial support and encouragement of programs serving children and families at risk are important functions of the juvenile court judge that enhance the overall administration of justice.

The standards in (e) are derived from statutory requirements in the following sections of the Welfare and Institutions Code as well as the supplementary material promulgated by the National Council of Juvenile and Family Court Judges and others: (1) Welfare and Institutions Code, sections 202, 209, 300, 317, 318, 319, 362, 600, 601, 654, 702, 727; (2) California Code of Judicial Conduct, canon 4; (3) Metropolitan Court Judges Committee, National Council of Juvenile and Family Court Judges, *Deprived Children: A Judicial Response—73 Recommendations* (1986), Recommendations 1–7, 14, 35, 40; and (4) National Council of Juvenile and Family Court Judges, Child Welfare League of America, Youth Law Center, and the National Center for Youth Law, *Making Reasonable Efforts: Steps for Keeping Families Together* pp. 43–59.

Standard 5.45. Resource guidelines for child abuse and neglect cases

(a) Guidelines

To improve the fair and efficient administration of child abuse and neglect cases in the California juvenile dependency system, judges and judicial

officers assigned to the juvenile court, in consultation with the presiding judge of the juvenile court and the presiding judge of the superior or consolidated court, are encouraged to follow the resource guidelines of the National Council of Juvenile and Family Court Judges, titled “Resource Guidelines: Improving Court Practice in Child Abuse & Neglect Cases.” The guidelines are meant to be goals to help courts achieve, among other objectives, the following:

- (1) Adherence to statutory timelines;
- (2) Effective calendar management;
- (3) Effective representation by counsel;
- (4) Child-friendly court facilities;
- (5) Timely and thorough reports and services to ensure informed judicial decisions, including reasonable efforts findings; and
- (6) Minimum time allocations for specified hearings.

(Subd (a) amended effective January 1, 2007.)

(b) Distribution of guidelines

The Administrative Office of the Courts will distribute a copy of the resource guidelines to each juvenile court and will provide individual copies to judicial officers and court administrators on written request.

(Subd (b) amended effective January 1, 2007.)

Standard 5.45 amended and renumbered effective January 1, 2007; adopted as sec. 24.5 effective July 1, 1997.

Advisory Committee Comment

Child abuse and neglect cases impose a special obligation on juvenile court judges to oversee case progress. Case oversight includes monitoring the agency’s fulfillment of its responsibilities and parental cooperation with the case plan. Court involvement in child welfare cases occurs simultaneously with agency efforts to assist the family. Federal and state legal mandates assign to the juvenile court a series of interrelated and complex decisions that shape the course of state intervention and determine the future of the child and family.

Unlike almost all other types of cases in the court system, child abuse and neglect cases deal with an ongoing and changing situation. In a child welfare case, the court must focus on agency

casework and parental behavior over an extended period of time. In making a decision, the court must take into account the agency's plan to help the family and anticipated changes in parental behavior. At the same time, the court must consider the evolving circumstances and needs of each child.

The purpose of these resource guidelines is to specify the essential elements of properly conducted court hearings. The guidelines describe the requirements of juvenile courts in fulfilling their oversight role under federal and state laws, and they specify the necessary elements of a fair, thorough, and speedy court process in child abuse and neglect cases. The guidelines cover all stages of the court process, from the initial removal hearing to the end of juvenile court involvement. These guidelines assume that the court will remain involved until after the child has been safely returned home, has been placed in another permanent home, or has reached adulthood.

Currently, juvenile courts in California operate under the same juvenile court law and rules, and yet the rules are implemented with considerable variation throughout the state. In part, this is due to the lack of resource guidelines. The adoption of the proposed resource guidelines will help encourage more consistent juvenile court procedures in the state.

The guidelines are meant to be goals, and, as such, some of them may appear out of reach because of fiscal constraints or lack of judicial and staff resources. The Judicial Council Family and Juvenile Law Advisory Committee and staff of the Administrative Office of the Courts are committed to providing technical assistance to each juvenile court to aid in implementing these goals.

Title 6. [Reserved]

Title 7. Standards for Probate Proceedings

Standard 7.10. Settlements or judgments in certain civil cases involving minors or persons with disabilities

Standard 7.10. Settlements or judgments in certain civil cases involving minors or persons with disabilities

In matters assigned to or pending in civil departments of the court where court approval of trusts that will receive proceeds of settlements or judgments is required under Probate Code section 3600, each court should develop practices and procedures that:

- (1) Provide for determination of the trust issues by the probate department of the court or, in a court that does not have a probate department, a judicial officer who regularly hears proceedings under the Probate Code; or

- (2) Ensure that judicial officers who hear these matters are experienced or have received training in substantive and technical issues involving trusts (including special needs trusts).

Standard 7.10 amended and renumbered effective January 1, 2007; adopted as sec. 40 effective January 1, 2005.

Title 8. Standards for the Appellate Courts

Standard 8.1. Memorandum opinions

Standard 8.1. Memorandum opinions

The Courts of Appeal should dispose of causes that raise no substantial issues of law or fact by memorandum or other abbreviated form of opinion. Such causes could include:

- (1) An appeal that is determined by a controlling statute which is not challenged for unconstitutionality and does not present any substantial question of interpretation or application;
- (2) An appeal that is determined by a controlling decision which does not require a reexamination or restatement of its principles or rules; or
- (3) An appeal raising factual issues that are determined by the substantial evidence rule.

Standard 8.1 amended and renumbered effective January 1, 2007; adopted as sec. 6 effective July 1, 1970.

Title 9. Standards on Law Practice, Attorneys, and Judges [Reserved]

Title 10. Standards for Judicial Administration

Standard 10.5. The role of the judiciary in the community

Standard 10.10. Judicial branch education

Standard 10.11. General judicial education standards

Standard 10.12. Judicial education for judicial officers in particular judicial assignments

Standard 10.13. Judicial education curricula provided in particular judicial assignments

Standard 10.14. Judicial education for judges hearing capital cases

Standard 10.15. General court employee education standards

Standard 10.16. Model code of ethics for court employees

Standard 10.17. Trial court performance standards

Standard 10.20. Court's duty to prohibit bias

Standard 10.21. Appointment of attorneys, arbitrators, mediators, referees, masters, receivers, and other persons

Standard 10.24. Children's waiting room

Standard 10.25. Reasonable accommodation for court personnel

Standard 10.31. Master jury list

Standard 10.40. Court security

Standard 10.41. Court sessions at or near state penal institutions

Standard 10.50. Selection of regular grand jury

Standard 10.51. Juror complaints

Standard 10.55. Local program on waste reduction and recycling

Standard 10.70. Implementation and coordination of mediation and other alternative dispute resolution (ADR) programs

Standard 10.71. Alternative dispute resolution (ADR) committees

Standard 10.72. ADR committees and criteria for referring cases to dispute resolution neutrals

Standard 10.80. Court records management standards

Standard 10.5. The role of the judiciary in the community

(a) Community outreach an official judicial function

Judicial participation in community outreach activities should be considered an official judicial function to promote public understanding of and confidence in the administration of justice. This function should be performed in a manner consistent with the California Code of Judicial Ethics.

(Subd (a) lettered effective January 1, 2007; adopted as part of unlettered subdivision effective April 1, 1999.)

(b) Encouraged outreach activities

The judiciary is encouraged to:

- (1) Provide active leadership within the community in identifying and resolving issues of access to justice within the court system;

- (2) Develop local education programs for the public designed to increase public understanding of the court system;
- (3) Create local mechanisms for obtaining information from the public about how the court system may be more responsive to the public's needs;
- (4) Serve as guest speakers, during or after normal court hours, to address local civic, educational, business, and charitable groups that have an interest in understanding the court system but do not espouse a particular political agenda with which it would be inappropriate for a judicial officer to be associated; and
- (5) Take an active part in the life of the community where the participation of the judiciary will serve to increase public understanding and promote public confidence in the integrity of the court system.

(Subd (b) amended effective January 1, 2007.)

Standard 10.5 amended and renumbered effective January 1, 2007; adopted as sec. 39 effective April 1, 1999.

Standard 10.10. Judicial branch education

(a) Purpose

Judicial branch education for all trial and appellate judicial officers and court employees is essential to improving the fair, effective, and efficient administration of justice. Judicial branch education is acknowledged as a vital component in achieving the goals of the Judicial Council's Long-Range Strategic Plan, including access and fairness, branch independence, modernization, and quality of justice. The Judicial Council has charged the Governing Committee of the Center for Judicial Education and Research (CJER), an advisory committee to the council, with developing and maintaining a comprehensive and quality education program on behalf of the Judicial Council for the California judicial branch.

(Subd (a) amended effective January 1, 2007.)

(b) Education activities part of official duties

Judicial officers and court employees should consider participation in education activities to be part of their official duties. The responsibility for planning, conducting, and overseeing judicial branch education properly resides in the judicial branch. Standards for judicial branch education are stated in standards 10.11 and 10.15.

(Subd (b) adopted effective January 1, 2007.)

(c) Education objectives

Judicial officers, court employees, educational committees, and others who plan judicial branch educational programs should work to achieve the following objectives:

- (1) Provide judicial officers and court employees with the knowledge, skills, and techniques required to competently perform their responsibilities fairly and efficiently;
- (2) Assist judicial officers and court employees to prevent bias in order to preserve the integrity and impartiality of the judicial system;
- (3) Promote adherence by judicial officers and court employees to the highest ideals of personal and official conduct specified in the California Code of Judicial Ethics and the Code of Ethics for the Court Employees of California;
- (4) Improve the administration of justice, reduce court delay, and promote fair and efficient management of court proceedings;
- (5) Promote standardized court practices and procedures; and
- (6) Implement the Standards of Judicial Administration recommended by the Judicial Council.

(Subd (c) amended and relettered effective January 1, 2007; adopted as subd (b) effective January 1, 1999.)

(d) Elements of comprehensive education program

The Governing Committee of CJER is responsible for developing and maintaining a comprehensive and quality education program for the judicial branch. This program is to be implemented by CJER as the Education Division of the Administrative Office of the Courts. The program should be

designed to meet the educational needs and requirements of judicial officers and court employees as stated in standards 10.11 and 10.15 and should include the following elements:

- (1) Developing curricula (instructional and participant materials) for all judicial and administrative courses along a continuum including basic and continuing education. Curricula for judicial courses should cover applicable substantive and procedural law.
- (2) Providing directly a range of education programs at the statewide, regional, and local levels, and facilitating the sharing of local and regional court education resources.
- (3) Developing skills-based curricula for judicial officers and court employees focused on learning practical skills, including management skills training and technology skills training.
- (4) Conducting train-the-trainer programs for judicial officers and court employees to develop a large group of experienced faculty that can deliver and support the delivery of curricula at the local and regional levels.
- (5) Providing technical assistance and other assistance, coordination, and support for local education programs, including curricula, written materials, videotapes, and trained faculty. This element is particularly important in providing sufficient education opportunities for court employees.
- (6) Developing and distributing a range of publications, audio- and videotapes, and other education services, including both electronic and print media.
- (7) Developing alternative delivery of judicial branch education services by means of distance learning, such as delivery of live programs on the Internet, satellite broadcasting, videoconferencing, CD-ROM and Internet publishing, and computer-based instruction.
- (8) Developing comprehensive materials to support ongoing efforts and provide a range of opportunities in the critical area of fairness education for judicial officers and court employees.
- (9) Developing comprehensive materials in order to provide a range of opportunities in management training and leadership development for

both judicial officers and court employees, including substantial skills-based training. Course development in this area should recognize the differences in managing courts of different sizes.

- (10) Publishing and distributing on a regular basis a catalog or compendium of education opportunities available at the state and local levels, including programs, audio- and videotapes, publications, and other education services.

(Subd (d) amended and relettered effective January 1, 2007; adopted as subd (c) effective January 1, 1999.)

Standard 10.10 amended and renumbered effective January 1, 2007; adopted as sec. 25 effective January 1, 1999.

Standard 10.11. General judicial education standards

(a) Judicial education generally

Judicial education for all judicial officers is essential to enhancing the fair and efficient administration of justice. Judicial officers should consider participation in judicial education activities to be an official judicial duty. The responsibility for planning, conducting, and overseeing judicial education properly rests in the judiciary.

(Subd (a) amended effective January 1, 2007; previously amended effective January 1, 1999.)

(b) Responsibilities of presiding judges and justices

Presiding judges and justices should establish judicial education plans for their courts that facilitate the participation of judicial officers as both students and faculty at judicial education programs, as prescribed by the California Rules of Court and these standards. They should also use their assignment powers to make appropriate replacements for judicial officers assigned to special calendar courts to permit them to participate in judicial education activities.

(Subd (b) amended effective January 1, 2007; previously amended effective January 1, 1999.)

(c) Judicial educational objectives

Judicial officers, educational committees, and others who plan educational programs should endeavor to achieve the objectives specified in standard 10(c).

(Subd (c) amended effective January 1, 2007; previously amended effective January 1, 1999.)

(d) Continuing judicial education

After a judicial officer has completed the first year on the bench, the court should grant the judicial officer at least eight court days per calendar year to attend continuing education programs relating to the judicial officer's responsibilities or court assignment. The judicial officer should participate in education activities related to particular judicial assignments as specified in standard 10.12.

(Subd (d) amended and relettered effective January 1, 2007; adopted as subd (e) effective January 1, 1990; previously amended effective January 1, 1999.)

(e) Education for retired judges sitting on assignment

Retired judges seeking to sit on regular court assignment should participate in education activities in order to comply with the requirements of the Chief Justice's Standards and Guidelines for Judges Who Serve on Assignment.

(Subd (e) amended and relettered effective January 1, 2007; adopted as subd (f) effective January 1, 1999.)

(f) Fairness education

In order to achieve the objective of assisting judicial officers in preserving the integrity and impartiality of the judicial system through the prevention of bias, all judicial officers should receive education on fairness. The education should include instruction on race and ethnicity, gender, sexual orientation, persons with disabilities, and sexual harassment.

(Subd (f) amended and relettered effective January 1, 2007; adopted as subd (g) January 1, 1999.)

(g) Service as faculty and education committee members

In addition to the educational leave required or authorized under rule 10.603 or subdivision (d) or (f) of this standard, a judicial officer should be granted leave to serve on judicial education committees and as a faculty member at

judicial education programs when the judicial officer's services have been requested for these purposes by the Judicial Council, the California Judges Association, CJER, or the judicial officer's court. If a court's calendar would not be adversely affected, the court should grant additional leave for a judicial officer to serve on an educational committee or as a faculty member for any judicial education provider that requests the judicial officer's services.

(Subd (g) amended and relettered effective January 1, 2007; adopted as subd (f) effective January 1, 1990; previously amended and relettered subd (h) effective January 1, 1999.)

(h) Reimbursement of expenses

A judicial officer should be reimbursed, in accordance with applicable state or local rules, by his or her court for actual and necessary travel and subsistence expenses incurred in attending a judicial education program as a student participant, except to the extent that the judicial education provider sponsoring the program pays the expenses. Every court's budget should provide for those expenses.

(Subd (h) amended and relettered effective January 1, 2007; adopted as subd (g) effective January 1, 1990; previously amended and relettered subd (i) effective January 1, 1999.)

(i) Application of standard to commissioners and referees

As used in this standard, unless the context or subject matter otherwise requires, "judicial officers" means justices, judges, commissioners, and referees who are court employees not engaged in the practice of law.

(Subd (i) amended and relettered effective January 1, 2007; adopted as subd (h) effective January 1, 1990; previously amended and relettered subd (j) effective January 1, 1999.)

Standard 10.11 amended and renumbered effective January 1, 2007; adopted as sec. 25 effective January 1, 1990; previously amended and renumbered as Sec. 25.1 effective January 1, 1999.

Advisory Committee Comment

Subdivision (a). This provision recognizes that judicial officers must develop, maintain, and improve their professional competence by participating in judicial orientation and training programs when they first assume their judicial positions, and thereafter in continuing education programs throughout their judicial careers.

The judiciary will assess its own educational needs and establish appropriate programs and tools for meeting those needs. Various judicial organizations in this state, such as the Administrative Office of the Courts, the California Judges Association, and the Center for Judicial Education and

Research, provide judicial officers with comprehensive educational opportunities in all areas of their judicial responsibilities. These organizations typically use experienced judicial officers to plan, conduct, oversee, and evaluate the effectiveness of their programs. Judicial officers determine all aspects of the programs offered by the California Judges Association. The Center for Judicial Education and Research is governed by an 11-member governing committee appointed by the Chief Justice of California as Chair of the Judicial Council. Four of the judicial members are nominated by the California Judges Association and four are appointed on behalf of the Judicial Council; three court administrator members are appointed on behalf of the Judicial Council. Subject to the Judicial Council's authority, the committee is responsible for determining matters relating to the center's judicial branch education policies and for making recommendations to the Judicial Council for action. The center's educational activities are planned, conducted, and overseen by a broad base of judicial officers and administrators serving on planning committees under the governing committee's supervision.

Subdivision (b). Although caseloads and court calendars may make it difficult for presiding judges and justices to permit judicial officers from their courts to participate in judicial education programs, their cooperation and preparation of orderly judicial education plans for all the judicial officers of their respective courts is important to the ultimate effectiveness of judicial education in this state.

Judicial officers who serve as faculty at judicial education programs are assumed to derive educational benefits comparable to, if not greater than, those received by student participants.

A judicial officer assigned to a special calendar court, such as family or juvenile, may not be able to participate in judicial education programs unless another judicial officer is assigned to handle that calendar while he or she is away.

Subdivision (d). This provision specifies the minimum annual continuing education relating to a judicial officer's responsibilities or court assignment. A judicial officer with two or more assignments or special responsibilities, such as a presiding or supervising judge, may require additional continuing education. In addition, if a court has established its own local judicial education program, judicial officers of that court are encouraged to avail themselves of local educational programs, materials, and liaison projects. Although (d) refers to court days, it assumes that judicial officers will continue to attend weekend courses.

Subdivision (g). This provision recognizes the importance of judicial officers being able to serve as lecturers, seminar leaders, consultants, and committee members for judicial education programs and projects. Faculty service is a significant educational experience for the faculty member and a significant contribution to the maintenance of necessary educational standards for the California judiciary.

Standard 10.12. Judicial education for judicial officers in particular judicial assignments

Each judicial officer, as part of his or her continuing judicial education, should participate in educational activities related to the following particular judicial assignments:

(a) Jury trials

A judicial officer assigned to jury trials should use Center for Judicial Education and Research (CJER) educational materials or other appropriate materials or attend CJER or other appropriate educational programs devoted to the conduct of jury voir dire and the treatment of jurors.

(b) Family court

Every judicial officer whose principal judicial assignment is to hear family law matters or who is the sole judicial officer hearing such matters should attend the following judicial education programs:

(1) *Basic education*

Within three months of beginning a family law assignment, or within one year of beginning a family law assignment in courts with five or fewer judicial officers, the judicial officer should attend a basic educational program on California family law and procedure designed primarily for judicial officers. A judicial officer who has completed the basic educational program need not attend the program again. All other judicial officers who hear family law matters, including retired judicial officers who sit on court assignment, should participate in appropriate family law educational programs.

(2) *Continuing education*

The judicial officer should attend a periodic update on new developments in California family law and procedure.

(3) *Other education*

To the extent that judicial time and resources are available, the judicial officer should attend additional educational programs on other aspects of family law, including interdisciplinary subjects relating to the family.

(Subd (b) amended effective January 1, 2007.)

(c) Juvenile dependency court

Each judicial officer whose principal judicial assignment is to hear juvenile dependency matters or who is the sole judicial officer hearing juvenile dependency matters should attend judicial education programs as follows:

(1) *Basic education*

Within one year of beginning a juvenile dependency assignment, the judicial officer should receive basic education on California juvenile dependency law and procedure designed primarily for judicial officers. All other judicial officers who hear juvenile dependency matters, including retired judicial officers who sit on court assignment, should participate in appropriate educational programs, including written materials and videotapes designed for self-study.

(2) *Continuing education*

The judicial officer should annually attend the CJER Juvenile Law and Procedure Institute and one additional education program related to juvenile dependency law, including programs sponsored by CJER, the California Judges Association, the Judicial Council, the National Judicial College, the National Council of Juvenile and Family Court Judges, and other programs approved by the presiding judge. The use of video- and audiotapes may substitute for attendance.

Standard 10.12 amended and renumbered effective January 1, 2007; adopted as sec. 25.2 effective January 1, 1999.

Standard 10.13. Judicial education curricula provided in particular judicial assignments

The Center for Judicial Education and Research (CJER) should provide a comprehensive educational curriculum for judicial officers in the following particular judicial assignments, corresponding to those identified in standard 10.12:

(1) *Jury trials*

CJER should develop and provide to every California trial court educational materials on jury selection and the treatment of jurors for use and review by judicial officers, court administrators, and jury staff employees.

(2) *Family court*

(A) *Comprehensive curriculum*

CJER should provide a comprehensive educational curriculum for judicial officers who hear family law matters. This curriculum should include instruction in California law and procedure relevant to family matters, the effects of gender on family law proceedings, the economic effects of dissolution, and interdisciplinary subjects relating to family court matters, including but not limited to child development, substance abuse, sexual abuse of children, domestic violence, child abuse and neglect, juvenile justice, adoption, and the social service and mental health systems. It should include videotaped presentations and written materials that can be provided for local court use.

(B) *Periodic updates*

CJER should conduct periodic educational programs that provide updates on new developments, innovative court practices, and fair and efficient procedures in family law.

(3) *Juvenile dependency court*

(A) *Comprehensive curriculum*

CJER should provide a comprehensive curriculum on juvenile dependency law and procedure for judicial officers who hear juvenile dependency matters. The curriculum should include:

- (i) California law and procedure relevant to juvenile dependency matters;
- (ii) Interagency relationships;
- (iii) The effects of gender, race, and ethnicity on juvenile dependency proceedings; and
- (iv) Interdisciplinary subjects relating to juvenile law matters, including child development, child witness, substance abuse, family violence, child abuse (including sexual abuse), adoption, and stress related to the juvenile court assignment. The curriculum should also include an instruction

component at the judicial college and materials for local court use and self-study.

(B) Periodic updates

CJER should conduct an annual educational program that provides an update on new developments, innovative programs and court practices, and fair and efficient procedures in juvenile law.

Standard 10.13 amended and renumbered effective January 1, 2007; repealed and adopted as sec. 25.3 effective January 1, 1999.

Standard 10.14. Judicial education for judges hearing capital cases

(a) **Comprehensive curriculum**

The Center for Judicial Education and Research (CJER) should provide a comprehensive curriculum and periodic updates for training on California law and procedure relevant to capital cases. The periodic update may be provided through actual classroom instruction or through video, audio, or other media as determined by CJER.

(Subd (a) amended effective January 1, 2007.)

(b) **Comprehensive training**

A judge assigned to a capital case should attend the comprehensive training specified in (a) before commencement of the trial. A judge with a subsequent assignment to a capital case should complete the periodic update course described in (a) within two years before the commencement of the trial.

(Subd (b) amended effective January 1, 2007.)

Standard 10.14 amended and renumbered effective January 1, 2007; adopted as sec. 25.4 effective January 1, 2004.

Standard 10.15. General court employee education standards

(a) **Court employee education generally**

Court employee education for all trial and appellate court employees is essential to enhancing the fair and efficient administration of justice. The Judicial Council strives to reach all court employees with educational

opportunities. Court employees should consider participation in judicial branch education activities to be an official duty. The responsibility for planning, conducting, and overseeing judicial branch education properly rests in the judicial branch.

(Subd (a) amended effective January 1, 2007.)

(b) Responsibilities of executive and administrative officers

Executive and administrative officers should develop, as a part of the annual budget process for their courts, annual education plans that facilitate employees' participation as both students and faculty in judicial branch education programs, as prescribed by this standard. The plans may designate, either locally or regionally, a training specialist to coordinate the implementation of the plans. The plans should include methods of measuring the effectiveness of education programs. A copy of the locally developed education plans should be forwarded to the Center for Judicial Education and Research (CJER), which will serve as a depository.

(Subd (b) amended effective January 1, 2007.)

(c) Court employee education objectives

Court employee educational committees and others who plan educational programs should endeavor to achieve the objectives specified in standard 10.10(c).

(Subd (c) amended effective January 1, 2007.)

(d) Executive and administrative officer education

- (1) Executive and administrative officers should participate in a minimum of one core course offered by the Judicial Council through CJER (e.g., a course in leadership, organizational change, technology, budgeting, community and media relations, caseload management, management teams, team building, or strategic planning) within one year of appointment.
- (2) Executive and administrative officers should annually participate in a minimum of one continuing education course or conference (e.g., California Judicial Administration Conference or Continuing Judicial Studies Program) offered by the Judicial Council through CJER or by other providers.

- (3) Executive and administrative officers should participate in a course on fairness and diversity offered locally or by the Judicial Council through CJER.
- (4) Executive and administrative officers should make use of alternative methods of delivery of educational programming offered locally or by the Judicial Council through CJER.
- (5) Executive and administrative officers should make training available to their employees on a local or regional level. This training should include an orientation program for all new employees on the background, history, and structure of the judicial branch, including the Judicial Council and the Administrative Office of the Courts.
- (6) Executive and administrative officers retain authority to determine whether employees may attend an education program, based on the program's quality and relevance.

(Subd (d) amended effective January 1, 2007.)

(e) Manager education

- (1) Managers should participate annually in a minimum of one core course on leadership, management, or supervision offered locally or by the Judicial Council through CJER.
- (2) Managers should participate in a course on fairness and diversity offered locally or by the Judicial Council through CJER.

(Subd (e) amended effective January 1, 2007.)

(f) Employee education

- (1) Employees should participate within the first year of employment in a local orientation program that includes the background, history, and structure of the judicial branch.
- (2) Employees should participate in a minimum of one continuing education course annually. This course may be offered by the Judicial Council through CJER, statewide by the clerks' associations, or locally by other providers. It may include a college course that is work related.

- (3) Employees should participate in a course on fairness and diversity offered locally or by the Judicial Council through CJER.
- (4) Employees should participate in a course covering appropriate skills and conduct for working with court customers offered locally or by the Judicial Council through CJER.
- (5) Eligible employees are encouraged to participate in the Court Clerk Training Institute within five years of appointment.

(Subd (f) amended effective January 1, 2007.)

(g) Fairness education

In order to achieve the objective of assisting court employees in preserving the integrity and impartiality of the judicial system through the prevention of bias, all court employees should receive education on fairness. The education should include instruction on race and ethnicity, gender, sexual orientation, persons with disabilities, and sexual harassment.

(Subd (g) amended effective January 1, 2007.)

(h) Education on treatment of jurors

The presiding judge of each trial court should ensure that all court administrators and all court employees who interact with jurors are properly trained in the appropriate treatment of jurors. Court administrators and jury staff employees should use CJER educational materials or other appropriate materials or attend CJER programs or other appropriate programs devoted to the treatment of jurors.

(Subd (h) amended effective January 1, 2007.)

(i) Service as faculty and committee members

In addition to participating as students in educational activities, court employees should be allowed and encouraged to serve on court employee education committees and as faculty at court employee education programs when an employee's services have been requested for these purposes by the Judicial Council, CJER, or the court.

(j) Reimbursement of expenses

A court employee should be reimbursed, in accordance with applicable state or local rules, by his or her court for actual and necessary travel and subsistence expenses incurred in attending a court employee education program as a student participant under this standard, except to the extent that the education provider sponsoring the program pays the expenses. Every court's budget should provide for those expenses.

(Subd (j) amended effective January 1, 2007.)

Standard 10.15 amended and renumbered effective January 1, 2007; adopted as sec. 25.6 effective January 1, 1999.

Advisory Committee Comment

Subdivision (a). This subdivision recognizes that court employees should develop, maintain, and improve their professional competence by participating in training programs when they assume their positions and thereafter in continuing education programs throughout their careers. The judicial branch should assess its own educational needs and establish appropriate programs.

Subdivision (b). The educational plans provided for in the subdivision are important for the ultimate effectiveness of judicial branch education in this state. Court employees who serve as faculty at education programs are assumed to derive educational benefits comparable to, if not greater than, those received by student participants.

Standard 10.16. Model code of ethics for court employees

Each trial and appellate court should adopt a code of ethical behavior for its support staff, and in doing so should consider rule 10.650(c)(12) of the California Rules of Court, and the model Code of Ethics for the Court Employees of California approved by the Judicial Council on May 17, 1994, and any subsequent revisions. The approved model code is published by the Administrative Office of the Courts.

Standard 10.16 amended and renumbered effective January 1, 2007; adopted as sec. 35 effective July 1, 1994.

Standard 10.17. Trial court performance standards

(a) Purpose

These standards are intended to be used by trial courts, in cooperation with the Judicial Council, for purposes of internal evaluation, self-assessment, and self-improvement. They are not intended as a basis for cross-court comparisons, nor are they intended as a basis for evaluating the performance of individual judges.

(Subd (a) lettered effective January 1, 2007; adopted as part of unlettered subdivision effective January 25, 1995.)

(b) Standards

The standards for trial court performance are as follows:

(1) Access to justice

- (A) The court conducts its proceedings and other public business openly.
- (B) Court facilities are safe, accessible, and convenient to use.
- (C) All who appear before the court are given the opportunity to participate effectively without undue hardship or inconvenience.
- (D) Judges and other trial court personnel are courteous and responsive to the public and accord respect to all with whom they come into contact.
- (E) The costs of access to the trial court's proceedings and records—whether measured in terms of money, time, or the procedures that must be followed—are reasonable, fair, and affordable.

(2) Expedition and timeliness

- (A) The trial court establishes and complies with recognized guidelines for timely case processing while, at the same time, keeping current with its incoming caseload.
- (B) The trial court disburses funds promptly, provides reports and information according to required schedules, and responds to requests for information and other services on an established schedule that assures their effective use.
- (C) The trial court promptly implements changes in law and procedure.

(3) Equality, fairness, and integrity

- (A) Trial court procedures faithfully adhere to relevant laws, procedural rules, and established policies.
 - (B) Jury lists are representative of the jurisdiction from which they are drawn.
 - (C) Trial courts give individual attention to cases, deciding them without undue disparity among like cases and on legally relevant factors.
 - (D) Decisions of the trial court unambiguously address the issues presented to it and make clear how compliance can be achieved.
 - (E) The trial court takes appropriate responsibility for the enforcement of its orders.
 - (F) Records of all relevant court decisions and actions are accurate and properly preserved.
- (4) *Independence and accountability*
- (A) A trial court maintains its institutional integrity and observes the principle of comity in its governmental relations.
 - (B) The trial court responsibly seeks, uses, and accounts for its public resources.
 - (C) The trial court uses fair employment practices.
 - (D) The trial court informs the community of its programs.
 - (E) The trial court anticipates new conditions or emergent events and adjusts its operations as necessary.
- (5) *Public trust and confidence*
- (A) The trial court and the justice it delivers are perceived by the public as accessible.
 - (B) The public has trust and confidence that the basic trial court functions are conducted expeditiously and fairly and that its decisions have integrity.

- (C) The trial court is perceived to be independent, not unduly influenced by other components of government, and accountable.

(Subd (b) lettered effective January 1, 2007; adopted as part of unlettered subdivision effective January 25, 1995.)

Standard 10.17 amended and renumbered effective January 1, 2007; adopted as sec. 30 effective January 25, 1995.

Standard 10.20. Court's duty to prohibit bias

(a) General

To preserve the integrity and impartiality of the judicial system, each judge should:

(1) *Ensure fairness*

Ensure that courtroom proceedings are conducted in a manner that is fair and impartial to all of the participants.

(2) *Refrain from and prohibit biased conduct*

In all courtroom proceedings, refrain from engaging in conduct and prohibit others from engaging in conduct that exhibits bias, including but not limited to bias based on disability, gender, race, religion, ethnicity, and sexual orientation, whether that bias is directed toward counsel, court personnel, witnesses, parties, jurors, or any other participants.

(3) *Ensure unbiased decisions*

Ensure that all orders, rulings, and decisions are based on the sound exercise of judicial discretion and the balancing of competing rights and interests and are not influenced by stereotypes or biases.

(Subd (a) amended effective January 1, 2007; previously amended effective January 1, 1994, and January 1, 1998.)

(b) Creation of local committees on bias

Each court should establish a local committee with local bar associations to assist in maintaining a courtroom environment free of bias or the appearance

of bias. Courts within one or more counties may choose to form a single committee. The local committee should:

- (1) Be composed of representative members of the court community, including but not limited to judges, lawyers, court administrators, and representatives and individuals from minority, women's, and gay and lesbian bar associations and from organizations that represent persons with disabilities;
- (2) Sponsor or support educational programs designed to eliminate bias within the court and legal communities, including but not limited to bias based on disability, gender, race, religion, ethnicity, and sexual orientation; and
- (3) Develop and maintain an informal procedure for receiving complaints relating to bias in the courtroom, including but not limited to bias based on disability, gender, race, religion, ethnicity, and sexual orientation.

(Subd (b) amended effective January 1, 2007; adopted effective January 1, 1994; previously amended effective January 1, 1998.)

(c) Minimum components of a complaint procedure

An informal complaint procedure developed and maintained by a local committee on bias should:

- (1) Contain a provision specifying that the intent of the procedure is to educate with the purpose of ameliorating the problem rather than disciplining the person who is the subject of the complaint;
- (2) Accommodate local needs and allow for local flexibility;
- (3) Apply to all participants in courtroom proceedings;
- (4) Apply only to complaints as to which the identity of the complainant is known;
- (5) To the extent possible and unless disclosure is required by law, protect the confidentiality of the complainant, the person who is the subject of the complaint, and other interested persons;
- (6) Relate to incidents of behavior or conduct occurring in courtroom proceedings;

- (7) Apply to incidents of bias whether they relate to race, sex, religion, national origin, disability, age, sexual orientation, or socioeconomic status;
- (8) Contain a provision that exempts activities constituting legitimate advocacy when matters of race, sex, religion, national origin, disability, age, sexual orientation, or socioeconomic status are relevant to issues in the courtroom proceeding;
- (9) Focus on incidents that do not warrant discipline but that should be corrected;
- (10) With respect to those incidents that if substantiated would warrant discipline, advise the complaining party of the appropriate disciplinary authority;
- (11) Contain a provision specifying that nothing in the procedure in any way limits the ability of any person to submit a complaint of misconduct to the appropriate disciplinary body; and
- (12) To the extent possible and unless disclosure is required by law, prohibit retention of written records of complaints received but permit collection of data on types of complaints or underlying anecdotes that might be useful in educational programs.

(Subd (c) amended effective January 1, 2007; adopted effective January 1, 1994.)

(d) Application of local rules

The existence of the local committee, its purpose, and the features of the informal complaint procedure should be memorialized in the applicable local rules of court.

(Subd (d) amended effective January 1, 2007; adopted effective January 1, 1994.)

Standard 10.20 amended and renumbered effective January 1, 2007; adopted as sec. 1 effective January 1, 1987; previously amended effective January 1, 1994, and January 1, 1998.

Standard 10.21. Appointment of attorneys, arbitrators, mediators, referees, masters, receivers, and other persons

(a) Nondiscrimination in appointment lists

In establishing and maintaining lists of qualified attorneys, arbitrators, mediators, referees, masters, receivers, and other persons who are eligible for appointment, courts should ensure equal access for all applicants regardless of gender, race, ethnicity, disability, sexual orientation, or age.

(b) Nondiscrimination in recruitment

Each trial court should conduct a recruitment procedure for the appointment of attorneys, arbitrators, mediators, referees, masters, receivers, and other persons appointed by the court (the “appointment programs”) by publicizing the existence of the appointment programs at least once annually through state and local bar associations, including specialty bar associations. This publicity should encourage and provide an opportunity for all eligible individuals, regardless of gender, race, ethnicity, disability, sexual orientation, or age, to seek positions on the rosters of the appointment programs. Each trial court also should use other methods of publicizing the appointment programs that maximize the opportunity for a diverse applicant pool.

(c) Nondiscrimination in application and selection procedure

Each trial court should conduct an application and selection procedure for the appointment programs that ensures that the most qualified applicants for an appointment are selected, regardless of gender, race, ethnicity, disability, sexual orientation, or age.

(Subd (c) amended effective January 1, 2007.)

Standard 10.21 amended and renumbered effective January 1, 2007; adopted as sec. 1.5 effective January 1, 1999.

Standard 10.24. Children’s waiting room

Each court should endeavor to provide a children’s waiting room located in the courthouse for the use of minors under the age of 16 who are present on court premises as participants or who accompany persons who are participants in court proceedings. The waiting room should be supervised and open during normal court hours. If a court does not have sufficient space in the courthouse for a children’s waiting room, the court should create the necessary space when court facilities are reorganized or remodeled or when new facilities are constructed.

Standard 10.24 renumbered effective January 1, 2007; adopted as sec. 1.3 effective January 1, 1987.

Standard 10.25. Reasonable accommodation for court personnel

At least to the extent required by state and federal law, each court should evaluate existing facilities, programs, and services available to employees to ensure that no barriers exist to prevent otherwise-qualified employees with known disabilities from performing their jobs or participating fully in court programs or activities.

Standard 10.25 renumbered effective January 1, 2007; adopted as sec. 1.4 effective January 1, 1998.

Standard 10.31. Master jury list

The jury commissioner should use the National Change of Address System or other comparable means to update jury source lists and create as accurate a master jury list as reasonably practical.

Standard 10.31 amended and renumbered effective January 1, 2007; adopted as sec. 4.6 effective July 1, 1997.

Standard 10.40. Court security

(a) Court security officer

Each trial court should designate a specified peace officer as Court Security Officer to be responsible to the court for all matters relating to its security, including security of courtrooms, buildings, and grounds. The peace officer designated as Court Security Officer should be the sheriff or the sheriff's designee, except that where local conditions dictate otherwise another peace officer may be designated. The Court Security Officer should be in operational command of all peace officers and others charged with a court security function while acting in that capacity and should be responsible for the adequacy of security equipment, the competence training and assignment of security forces, and the effective execution of the Court Security Plan described in (b).

(Subd (a) amended effective January 1, 2007.)

(b) Preparation of court security plan

Each court should require the Court Security Officer to prepare a Court Security Plan for its review and consideration. The Court Security Plan should:

- (1) Be the operational plan for achieving the desired level of security for courtrooms, buildings, and grounds, including the planned allocation of security forces and equipment;
- (2) Describe the place and functional assignment and the dress and arming of all security forces (e.g., bailiffs), and propose plans for maintaining courtroom decorum and safety within courthouses and grounds in high-risk situations; and
- (3) Include an evaluation of the court's security needs, and an assessment of the adequacy and effectiveness of the equipment and forces available to meet those needs.

(Subd (b) amended effective January 1, 2007.)

(c) Adoption and review of Court Security Plan

Each trial court should adopt, reject, or request modification of the proposed Court Security Plan after giving due consideration to all local conditions affecting its security and to the effect of the plan on the conduct of trials and other proceedings. Each trial court should provide for a periodic review of its security plan and for a periodic assessment of the effectiveness of its execution.

(Subd (c) lettered effective January 1, 2007; adopted as part of subd (b) effective July 1, 1971.)

(d) Wearing of firearms in court

No trial court should approve a Court Security Plan that does not limit the wearing of firearms in the courthouse or courtrooms to peace officers and proscribe the wearing of firearms in such places by all other persons.

(Subd (d) relettered effective January 1, 2007; adopted as subd (c) effective July 1, 1971.)

(e) Security of Courts of Appeal

Each Court of Appeal should review its security needs and, if necessary, should request personnel and equipment deemed necessary to maintain the desired level of security.

(Subd (e) relettered effective January 1, 2007; adopted as subd (d) effective July 1, 1971.)

Standard 10.40 amended and renumbered effective January 1, 2007; adopted as sec. 7 effective July 1, 1971.

Standard 10.41. Court sessions at or near state penal institutions

(a) Provision of adequate protection

Facilities used regularly for judicial proceedings should not be located on the grounds of or immediately adjacent to a state penal institution unless the location, design, and setting of the court facility provide adequate protection against the possible adverse influence that the prison facilities and activities might have on the fairness of judicial proceedings.

(Subd (a) amended effective January 1, 2007.)

(b) Factors to be considered

In determining whether adequate protection is provided, the following factors should be considered:

- (1) The physical and visual remoteness of the court facility from the facilities and activities of the prison;
- (2) The location and appearance of the court facility with respect to the adjacent public areas through which jurors and witnesses would normally travel in going to and from the court;
- (3) The accessibility of the facility to the press and the general public; and
- (4) Any other factors that might affect the fairness of the judicial proceedings.

(Subd (b) lettered effective January 1, 2007; adopted as part of subd (a) effective July 1, 1975.)

(c) Compelling reasons of safety or court convenience

Unless the location, design, and setting of the facility for conducting court sessions meet the criteria in (a) and (b):

- (1) Court sessions should not be conducted in or immediately adjacent to a state penal institution except for compelling reasons of safety or convenience of the court; and
- (2) Court sessions should not be conducted at such a location when the trial is by jury or when the testimony of witnesses who are neither inmates nor employees of the institution will be required.

(Subd (c) amended and relettered effective January 1, 2007; adopted as subd (b) effective July 1, 1975.)

Standard 10.41 amended and renumbered effective January 1, 2007; adopted as sec. 7.5 effective July 1, 1975.

Standard 10.50. Selection of regular grand jury

(a) Definition

“Regular grand jury” means a body of citizens of a county selected by the court to investigate matters of civil concern in the county, whether or not that body has jurisdiction to return indictments.

(b) Regular grand jury list

The list of qualified candidates prepared by the jury commissioner to be considered for nomination to the regular grand jury should be obtained by one or more of the following methods:

- (1) Names of members of the public obtained at random in the same manner as the list of trial jurors. However, the names obtained for nomination to the regular grand jury should be kept separate and distinct from the trial jury list, consistent with Penal Code section 899.
- (2) Recommendations for grand jurors that encompass a cross-section of the county’s population base, solicited from a broad representation of community-based organizations, civic leaders, and superior court judges, referees, and commissioners.
- (3) Applications from interested citizens solicited through the media or a mass mailing.

(Subd (b) amended effective January 1, 2007.)

(c) Carryover grand jurors

The court is encouraged to consider carryover grand jury selections under Penal Code section 901(b) to ensure broad-based representation.

(d) Nomination of grand jurors

Judges who nominate persons for grand jury selection under Penal Code section 903.4 are encouraged to select candidates from the list returned by the jury commissioner or to otherwise employ a nomination procedure that will ensure broad-based representation from the community.

(Subd (d) amended effective January 1, 2007.)

(e) Disfavored nominations

Judges should not nominate to the grand jury a spouse or immediate family member (within the first degree of consanguinity) of any superior court judge, commissioner, or referee; elected official; or department head of any city, county, or governmental entity subject to grand jury scrutiny.

(Subd (e) amended effective January 1, 2007.)

Standard 10.50 amended and renumbered effective January 1, 2007; adopted as sec. 17 effective July 1, 1992.

Standard 10.51. Juror complaints

Each court should establish a reasonable mechanism for receiving and responding to juror complaints.

Standard 10.51 renumbered effective January 1, 2007; adopted as sec. 4.5 effective July 1, 1997.

Standard 10.55. Local program on waste reduction and recycling

Each court should adopt a program for waste reduction and recycling or participate in a county program.

Standard 10.55 amended and renumbered effective January 1, 2007; adopted as sec. 17.5 effective January 1, 1991.

Standard 10.70. Implementation and coordination of mediation and other alternative dispute resolution (ADR) programs

(a) Implementation of mediation programs for civil cases

Superior courts should implement mediation programs for civil cases as part of their core operations.

(Subd (a) adopted effective January 1, 2006.)

(b) Promotion of ADR programs

Superior courts should promote the development, implementation, maintenance, and expansion of successful mediation and other alternative dispute resolution (ADR) programs, through activities that include:

- (1) Establishing appropriate criteria for determining which cases should be referred to ADR, and what ADR processes are appropriate for those cases. These criteria should include whether the parties are likely to benefit from the use of the ADR process;
- (2) Developing, refining, and using lists of qualified ADR neutrals;
- (3) Adopting appropriate criteria for referring cases to qualified ADR neutrals;
- (4) Developing ADR information and providing educational programs for parties who are not represented by counsel; and
- (5) Providing ADR education for judicial officers.

(Subd (b) amended effective January 1, 2007; adopted as unlettered subdivision effective July 1, 1992; lettered and amended effective January 1, 2006.)

(c) Coordination of ADR programs

Superior courts should coordinate ADR promotional activities and explore joint funding and administration of ADR programs with each other and with professional and community-based organizations.

(Subd (c) adopted effective January 1, 2006.)

Standard 10.70 amended and renumbered effective January 1, 2007; adopted as sec. 32 effective July 1, 1992; previously amended effective January 1, 2006.

Standard 10.71. Alternative dispute resolution (ADR) committees

Courts that are not required and that do not elect to have an ADR administrative committee as provided in rule 10.783 of the California Rules of Court should form committees of judges, attorneys, alternative dispute resolution (ADR) neutrals, and county ADR administrators, if any, to oversee the court's ADR programs and panels of neutrals for general civil cases.

Standard 10.71 amended and renumbered effective January 1, 2007; adopted as sec. 32.1 effective January 1, 2006.

Standard 10.72. ADR committees and criteria for referring cases to dispute resolution neutrals

(a) Training, experience, and skills

Courts should evaluate the ADR training, experience, and skills of potential ADR neutrals.

(Subd (a) amended effective January 1, 2006.)

(b) Additional considerations for continuing referrals

After a court has sufficient experience with an ADR neutral, the court should also consider indicators of client satisfaction, settlement rate, continuing ADR education, and adherence to applicable standards of conduct in determining whether to continue referrals to that neutral.

(Subd (b) amended effective January 1, 2006.)

Standard 10.72 amended and renumbered effective January 1, 2007; adopted as sec. 33 effective July 1, 1992; previously amended effective January 1, 2006.

Advisory Committee Comment

Although settlement rate is an important indicator of a neutral's effectiveness, it should be borne in mind that some disputes will not resolve, despite the best efforts of a skilled neutral. Neutrals should not feel pressure to achieve a high settlement rate through resolutions that may not be in the interest of one or more parties. Accordingly, settlement rate should be used with caution as a criterion for court referral of disputes to neutrals.

Standard 10.80. Court records management standards

Each court should develop records management practices consistent with the standards approved by the Judicial Council. The approved standards are specified

in Judicial Council Court Records Management Standards, published by the Administrative Office of the Courts.

Implementation of these standards, which cover creation, use, maintenance, and destruction of records, should lead to more efficient court administration, better protection and preservation of records, and improved public access to records.

Standard 10.80 amended and renumbered effective January 1, 2007; adopted as sec. 34 effective January 1, 1993.